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An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.

Whereas it is expedient to consolidate and amend the law relating to the Courts in British Burma, and to extend to that Province certain Regulations of the Bengal Code; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Burma Courts Act, 1875."

Short title. Act, 1875."

It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma;

Extent.

And it shall come into force on the passing thereof.

Commencement.

2. Acts No. VII of 1872 (*to consolidate and amend the law relating to the Courts in British Burma*) and No. I of 1873 (*to amend the Burma Courts Act, 1872*) are repealed. But all rules made, directions given and powers conferred under either of the said Acts shall be deemed to have been respectively made, given and conferred hereunder.

And nothing herein contained shall render invalid the trials mentioned in section fourteen of the latter Act.

3. In this Act—unless there be something repugnant in the subject or context—

Interpretation-clause. context—

"Chief Commissioner" means the Chief Commissioner of British Burma;

"High Court" means the High Court of Judicature at Fort William in Bengal; and

"Judicial Commissioner" means the Judicial Commissioner of British Burma.

CHAPTER II.

LAW TO BE ADMINISTERED.

4. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,

Certain decisions to be according to Native law.

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindú law in cases where the parties are Hindús,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in British Burma.

In cases not provided for by the former part of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

5. Except as provided in section four, all questions arising in suits before the Recorder of Rangoon shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

CHAPTER III.

OF THE COURT OF THE JUDICIAL COMMISSIONER AND THE COURTS SUBORDINATE THERETO.

(a). Grades of Courts.

6. Besides the Courts of Small Causes, the Court of the Recorder of Rangoon and the Special Court hereinafter mentioned, there shall be six grades of Civil Courts in British Burma, (namely):—

(a) the Court of the Extra Assistant Commissioner of the third class:

(b) the Courts of the Extra Assistant Commissioner of the second class, the Extra Assistant Commissioner of the first class, and the Assistant Commissioner:

(c) the Court of the Deputy Commissioner:

(d) the Court of the Judge of the Town of Maulmain:

(e) the Court of the Commissioner; and

(f) the Court of the Judicial Commissioner.

7. All existing Courts, corresponding to the Courts mentioned in clauses (a), (b), (c), (d), (e) and (f) of section six, and the presiding officers and the local limits of the jurisdiction thereof, respectively, shall be deemed to have been respectively established, appointed and fixed under this Act.

(b). Number and local jurisdiction of Courts.

8. The Governor General in Council may from time to time vary the number of Courts of each grade established under this Act.

9. The Chief Commissioner may, with the previous sanction of the Governor General in Council, from time to time vary the local limits of the jurisdiction of any Court mentioned in section six, clauses (a), (b), (c), (d), (e) and (f).

10. Every such Court shall—

(a) be held at such place or places as may from time to time be directed by the Chief Commissioner; or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit, and

(b) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner.

11. The general superintendence over all the Courts mentioned in section six, clauses (a), (b), (c), (d) and (e) is vested in, and the said Courts shall be subordinate to, the Judicial

Commissioner; and, subject to such general superintendence, the Commissioner shall control the Courts of the Deputy Commissioners within his Division; and the Deputy Commissioner shall control the Courts of grades (a) and (b) within his district.

(c). Civil Jurisdiction.

12. The Courts mentioned in the first column of the subjoined table shall ordinarily have such civil jurisdiction respectively, for the adjudication of suits as is specified in the second column thereof:—

Name and grade of Court.	Extent of jurisdiction.
(a). The Court of the Extra Assistant Commissioner of the third class.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed five hundred rupees.
(b). The Court of the Extra Assistant Commissioner of the second class, the Court of the Extra Assistant Commissioner of the first class, and the Court of the Assistant Commissioner.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed three thousand rupees.
(c). The Court of the Deputy Commissioner.	Powers of a Civil Court in all suits, whatever be the amount or value of the subject-matter thereof. Powers of a District Judge. Power to hear appeals from decrees and orders in original suits and proceedings of the Courts of grades (a) and (b), where such appeal is allowed by law. Power to direct the business in the Courts of grades (a) and (b) to be distributed among such Courts in such way as he thinks fit.
(d). The Court of the Judge of the Town of Maulmain.	Powers of a District Judge. Powers of a Civil Court, whatever be the amount or value of the subject-matter of the suit. Powers of a Court of Small Causes, where the amount or value of the subject-matter of the suit does not exceed one thousand rupees.
(e). The Court of the Commissioner.	Power to withdraw any suit or appeal instituted in any Court within the local limits of his jurisdiction, except a Court of Small Causes or the Court of the Judge of the Town of Maulmain, and try such suit or appeal himself or refer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter thereof. Power to hear appeals from decrees and orders in original suits and proceedings of the Court of grade (e), where such appeal is allowed by law.

Name and grade of Court.	Extent of jurisdiction.
(f). The Court of the Judicial Commissioner.	<p>Powers of a High Court, in relation to all Courts in British Burma, including Small Cause Courts, except the Court of the Recorder of Rangoon, and the Court of Small Causes of Rangoon.</p> <p>Power to remove and try any suit, appeal or other proceeding instituted in any subordinate Court except a Court of Small Causes, or to refer it to any Court of competent jurisdiction as to the value or amount of the subject-matter thereof.</p> <p>Power to hear appeals from decrees and orders in original suits and proceedings of the Court of the Commissioner, where such appeal is allowed by law.</p>

Provided that, where a Court of Small Causes is established within the local limits of the jurisdiction of any Court of the said grade (a), (b) or (c), such Court shall not take cognizance of any suit cognizable by the Court of Small Causes so established.

(d). *Special Civil Jurisdiction.*

13. The Chief Commissioner may invest any Chief Commissioner Assistant Commissioner, or Extra Assistant Commissioner of the first or second class, with power to try suits, the subject-matter of which does not exceed in amount or value five thousand rupees.

14. The Chief Commissioner may invest any Chief Commissioner may invest certain Courts with powers of Judge of Court of Small Causes, presiding officer of the Courts of grades (a) and (b) mentioned in section six with the powers of a Judge of a Court of Small Causes, to hear and determine suits of a nature cognizable by a Court of Small Causes, and the subject-matter of which is of such amount or value as the Chief Commissioner thinks fit, not exceeding five hundred rupees.

Any Court so invested shall, in the exercise of the powers so conferred, be governed by the provisions of the law for the time being in force regulating the procedure of Courts of Small Causes outside the towns of Calcutta, Madras and Bombay.

15. The Chief Commissioner may extend the Power to extend Small Cause jurisdiction to Rs. 1,000. jurisdiction of any Court of Small Causes to suits of a nature cognizable by such Courts of which the subject-matter does not exceed in amount or value one thousand rupees.

16. The Chief Commissioner may empower the Exercise by one Court within limits of another of same class, of powers of latter. presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d) or (e), to exercise the powers which might be exercised by the presiding officer of any other Court of the same grade within the local limits of the jurisdiction of the latter Court.

17. The Chief Commissioner may confer upon the Power to confer powers of Deputy Commissioner's Court. charge of any district the powers which might be exercised within such district by the Court of a Deputy Commissioner.

(e). *Civil Procedure.*

18. Where a suit is brought for immovable property situate within the local limits of the jurisdiction of different Courts included in the same Division, Procedure when subject-matter of suit is situate within jurisdiction of different Courts. application for authority to proceed with the same shall be made to the Commissioner of the Division.

If the said Courts belong to different Divisions, the application shall be made to the Judicial Commissioner through the Commissioner of the Division in which the Court wherein the suit was instituted is included.

If either of the said Courts is the Court of the Recorder of Rangoon, the application shall be made to the Special Court hereinafter mentioned.

19. No presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d), (e) or (f) Presiding officer of Court not to try suit or appeal in which he is interested; shall, unless with the consent of the parties, or by the direction of the Chief Commissioner, try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal:

When any such suit, appeal or proceeding comes before the presiding officer of any Court subordinate to the Judicial Commissioner, he shall forthwith, unless the parties apply that he proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances of such transmission:

Such Court shall thereupon try the case itself, or transfer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter.

20. In the event of an appeal being preferred to the Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Judicial Commissioner to try the case himself, or transfer it to the Court of the Recorder of Rangoon.

20. Notwithstanding anything contained in the Code of Civil Procedure, section 6, every Deputy Commissioner may direct suits to be instituted in the Courts subordinate to him, according to such rules as to the description of the suits and the amount or value of their subject-matter as he from time to time, with the sanction of the Judicial Commissioner, prescribes in this behalf,

and may also, with the like sanction, direct the business of the said Courts to be distributed among them in such way as he thinks fit:

provided that no Court shall try any suit where the amount or value of the subject-matter exceeds its proper jurisdiction.

Notwithstanding anything contained in the same Code, sections 26 and 172, plaints may be written and evidence may be taken down in such language or languages as the Chief Commissioner from time to time directs in this behalf.

(f). *Civil Appeals.*

21. Subject to any express provision to the contrary contained in any Act for the time being in force in British Burma, an appeal shall lie from the decrees and orders of the Courts of original civil jurisdiction in British Burma to the Courts empowered by this Act to hear appeals from such decrees and orders.

All such appeals presented between the fifth day of April, 1872, and the passing of this Act, shall be deemed to have been presented under this section.

22. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order.

23. The Chief Commissioner may direct that the civil appellate jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.

The Chief Commissioner may also at any time direct that any appellate jurisdiction which has been so transferred to the Judicial Commissioner shall revert to the Commissioner from whom it was so transferred.

24. The Appellate Court may confirm the decision of the Lower Court without summoning the respondent, if upon perusal of the judgment of the Lower Court and of the petition of appeal in the presence of the appellant or his pleader, there appear to the Appellate Court to be no reason to alter the decision appealed from.

25. When in the trial of any civil appeal the Appellate Court entertains a doubt in regard to a question of law or usage having the force of law, or as to the construction of a document, or as to the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the point as to which it is in doubt, and refer it, with the Court's own opinion thereon, for the decision of the Judicial Commissioner.

26. The Judicial Commissioner shall, after considering the point so referred, send a ruling thereon to the Court by which the reference was made; and such Court shall, on the receipt of such ruling, proceed to dispose of the case in conformity therewith.

The costs, if any, consequent on any such reference to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

27. If in any suit the decision of the Deputy Commissioner or of the Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

28. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a matter of fact, such decision shall be final.

29. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence affecting the merits of the case, the party aggrieved by such decision may apply to such Court to draw up a statement of the point as to which he considers such Court to have made an incorrect ruling, and to submit it to the Judicial Commissioner, or to allow him to appeal on the same point to the Judicial Commissioner.

Such application or appeal shall not be admitted, unless it is made within the period prescribed by law for petitions of appeal. And if the statement is drawn up, or the appeal is allowed, the applicant shall be chargeable with the fee prescribed by law for petitions of appeal.

In the case of an application to draw up a statement, if the Court consider that there is a question of law or custom having the force of law, or as to the construction of a document or admissibility of evidence affecting the merits of the case, it shall draw up a statement of the same and of such facts only of the case as are necessary to explain it, and shall submit such statement, together with the record of the case, to the Judicial Commissioner.

If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of such reasons shall, on application to the Court, be furnished to any party to the suit.

The costs of a statement drawn up under this section shall be costs in the cause. The costs of an application under this section to be allowed to appeal shall, if the appeal be allowed, be disposed of by the Court of appeal.

30. The Judicial Commissioner shall, with as little delay as possible, proceed to try the case referred, as if it were an appeal instituted in his Court, except that it shall not be necessary for the parties to be present:

the Judicial Commissioner shall send a copy of his judgment to the Court by which the case was submitted, and the said Court shall dispose of the case in conformity with such judgment.

31. When the Judicial Commissioner entertains any doubt as to the decision of the High Court, he may make a reference to the High Court, and shall send the record of the said appeal or case and all the proceedings connected therewith to the said Court.

The procedure prescribed by section thirty shall *mutatis mutandis* be followed by the High Court in the disposal of references made under this section.

32. The costs, if any, consequent on such reference shall be disposed of by the Judicial Commissioner.

33. For the trial of any civil appeal or reference under this Act, the Judicial Commissioner may constitute two or more persons assessors of his Court. Such persons shall attend during the trial and shall deliver their opinions in writing to be recorded on the proceedings. But the decision of the case shall rest with the Judicial Commissioner.

No officer of the Judicial Commissioner's Court shall be appointed an assessor under this section.

34. In any case in which a Court of first appeal has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section twenty-nine, the Judicial Commissioner may call for the record of the case, and may, on receipt of such record, proceed to try the case as if it were an appeal instituted in his own Court.

And in any case in which a Court of first appeal has submitted such a statement, but, in the opinion of the Judicial Commissioner, the statement is unduly limited, or justice cannot be done without re-hearing the case, the Judicial Commissioner may proceed to try the case as if it were an appeal instituted in his own Court.

The Judicial Commissioner shall send to the Court of first appeal a copy of his judgment in any case tried under this section, and the said Court shall dispose of the case in conformity with such judgment.

(g). *Criminal Jurisdiction.*

35. The Judicial Commissioner shall be deemed to have and to have had the powers of a High Court under the Code of Criminal Procedure in criminal matters in relation to all Courts in British Burma, except that of the Recorder of Rangoon, and except those of Magistrates within the local limits of the ordinary civil jurisdiction of the said Recorder:

The Commissioner shall be deemed to have and to have had the powers of a Sessions Judge:

The Judge of the Town of Maulmain shall have the powers of a Sessions Judge.

36. The Chief Commissioner may direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner either wholly or in respect of a particular case or class of cases,

and either for a specified time or until further orders. The Chief Commissioner may also at any time direct that any jurisdiction so transferred shall revert to the Commissioner from whom it was transferred.

(h). *Petitions to Judicial Commissioner when exercising transferred jurisdiction.*

37. When the civil or criminal appellate jurisdiction of any Commissioner has, under section twenty-three or section thirty-six, been transferred to the Judicial Commissioner,

(a) all petitions and other documents presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Court Fees Act, 1870, be deemed to have been presented to the Commissioner: and

(b) all appeals and applications presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Indian Limitation Act, 1871, be deemed to have been presented to him in the exercise of his ordinary jurisdiction.

(i). *Appointment and removal of Officers.*

38. The presiding officers of all the Courts under this Act, except that of the Extra Assistant Commissioner of the third class, shall be appointed by the Governor General in Council.

Extra Assistant Commissioners of the third class shall be appointed and may be removed by the Chief Commissioner.

39. The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor General in Council.

The presiding officer of any such Court, except the Courts of the Judicial Commissioner and the Recorder of Rangoon, may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor General in Council.

40. The ministerial officers of the Courts of grades (a) and (b) mentioned in section six shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

The ministerial officers of all other Courts under this Act shall be appointed by the presiding officers thereof;

provided that the appointment of every ministerial officer of a Court subordinate to the Judicial Commissioner, whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

41. Every Court of the grades (a) and (b) mentioned in section six may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order; and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of a Court subordinate to him.

The presiding officer of any of the Courts of grades (c), (d), (e) and (f) mentioned in section six, and of any Court of Small Causes, may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary; but in the case of Courts subordinate to the Judicial Commissioner, every such removal, suspension or fine shall be subject to review by him.

42. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

43. The Chief Commissioner shall have a power of general control over all appointments and removals of ministerial officers under this Act.

(k). *Holidays.*

44. Subject to the orders of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in his Court and the Courts subordinate to him.

Such list shall be published in the *British Burma Gazette*, and the days therein mentioned shall be observed accordingly.

CHAPTER IV.

OF THE COURT OF THE RECORDER OF RANGOON.

(a). *The Recorder.*

45. There shall continue to be a Court, to be called the Court of the Recorder of Rangoon.

The Recorder shall be appointed by the Governor General in Council, and shall be a Barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

He shall hold his Court ordinarily in the Town of Rangoon; but the Chief Commissioner may direct him on any particular occasion to hold his Court at Maulmain, Akyab, or Bassein, for the trial of civil suits or appeals transferred to him, or of criminal cases in which European British subjects are concerned.

The Recorder shall use a seal of such form and dimensions as are for the time being prescribed in this behalf by the Chief Commissioner.

46. Upon the occurrence of any vacancy in the office of Recorder of Rangoon, and during any absence of the Recorder, the Chief Commissioner may direct the Judicial Commissioner or any Commissioner to perform the duties of the Recorder;

and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill or officiate in the office of the Recorder, and has entered upon the discharge of the duties of such office, or until the Recorder resumes his duties.

(b). *Civil Jurisdiction.*

47. The present local limits of the jurisdiction of the Recorder of Rangoon shall be the local limits of the ordinary civil jurisdiction of the Recorder appointed under this Act; but the Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, vary such limits.

48. The Court of the Recorder shall have jurisdiction in the adjudication of suits of every description, except those which are cognizable by a Court of Small Causes, if, in the case of immoveable property, the subject-matter of the suit is situate, or if, in all other cases, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant or agent carries on business or works for gain, within the limits mentioned in section forty-seven.

A corporation or company having an office within such limits shall, when the cause of action, or a material part thereof, has arisen in British Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

49. There shall be no appeal from the decree or order of the Recorder passed in any original suit or proceeding where the amount or value of the subject-matter does not exceed three thousand rupees.

But where the amount or value of the suit or proceeding in the Recorder's Court exceeds three thousand rupees, and is less than ten thousand rupees, an appeal shall lie to the High Court: provided that the amount or value of the matter in dispute on appeal must exceed the former sum and be less than the latter.

50. For the trial of civil suits the Recorder may constitute one or more persons assessor or assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder.

No officer of the Recorder's Court shall be appointed an assessor under this section.

51. The Recorder shall within the local limits or of his ordinary civil jurisdiction, exercise the powers of a District Judge; and he shall also exercise the powers of a District Judge under Act No. IV of 1869 (*The Indian Divorce Act*) throughout British Burma.

52. The Recorder shall, in respect of the Court of Small Causes in Rangoon, exercise and perform the powers and duties of a High Court.

Recorder's powers in respect of Small Cause Court, Rangoon.

53. The Recorder may, if he thinks fit, grant a new trial in any suit tried by him, if, in suits relating to land or other immoveable property, such new trial be applied for within three months from the date of the decision, and, in all other cases, if it be applied for within thirty days from the date of the decision.

Grant of new trial.

Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if such review be applied for within the period allowed for making such applications.

Review of judgment.

Provided also that, the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review, or for the costs of the new trial or review.

Security from applicant for either.

54. If in any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision, arises, on which the Recorder entertains any doubt, he may, either of his own motion, or on the application of the parties to the suit or either of them, draw up a statement of the case, and refer such statement, with his own opinion, for the decision of the High Court.

Power to state case for decision of High Court.

55. The Recorder may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the decision of the High Court on the point referred; but no execution shall be issued in any case in which a reference has been made to the High Court, until the receipt of its decision on such reference.

Decree contingent thereon.

56. Cases referred under section fifty-four for the decision of the High Court shall be dealt with by a bench of two or more Judges of that Court.

Full bench to deal with cases referred.

57. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; but they shall not be bound so to appear; and the High Court, when it has heard and considered the case, shall transmit a copy of its decision, under the seal of the Court and the signature of the proper officer, to the Recorder, who shall, on the receipt thereof, dispose of the case conformably to the decision of the High Court.

Procedure on reference.

Costs, if any, consequent on the reference of a case for the decision of the High Court, shall be costs in the suit.

Costs of reference to High Court.

58. The Chief Commissioner may direct the transfer to the Recorder's Court of any suit or appeal which may have been instituted in any other Court in British Burma.

Transfer of suits to Recorder's Court.

Every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in such case and it had been instituted in his Court.

Trial of such suits.

59. When any suit or proceeding comes before the Recorder of Rangoon, to whom or in which he is a party or personally interested, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Recorder to try the case himself, or transfer it to the Court of the Judicial Commissioner.

Disposal of suit where Recorder is interested.

The Judicial Commissioner shall have the same jurisdiction in the adjudication of cases so transferred as the Recorder has in suits and proceedings cognizable by him under this Act, and the provisions of sections fifty-three to fifty-seven inclusive shall *mutatis mutandis* apply to such cases.

Jurisdiction of Judicial Commissioner in cases transferred.

(c). *Criminal Jurisdiction.*

60. The Recorder shall exercise the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the local limits of his ordinary civil jurisdiction and (on the occasion and for the purpose mentioned in section forty-five, clause three) at Maulmain, Akyab and Bassein :

Recorder to exercise powers of Session Court.

Provided that sentences of death passed by him as a Court of Session shall be subject to the confirmation of the Special Court.

For the purposes of section 64A of the Code of Criminal Procedure, the Court of the Recorder shall be deemed to be a High Court.

61. The Recorder shall have all the powers of a High Court under the Code of Criminal Procedure in respect of the Magistrates within the local limits of his ordinary civil jurisdiction and the proceedings of such Magistrates.

Power to revise proceedings of Magistrates.

62. The Recorder shall have the powers of a High Court under the Code of Criminal Procedure for the trial of, and otherwise with reference to, European British subjects and persons charged jointly with European British subjects ;

Jurisdiction as to European British subjects and persons charged jointly with them.

and all commitments of European British subjects and of persons charged jointly with European British subjects, on charges of offences committed within British Burma, which would according to the law of Criminal Procedure for the time being in force be made to a High Court, shall be made to his Court.

63. The proceedings on trials held by the Recorder for the trial of European British subjects, shall be regulated by the Code of Criminal Procedure :

Procedure.

Provided that European officers in the Military Service, Commissioned and Non-Commissioned, resident within ten miles of the place of sitting of the Court, shall be liable to serve as jurors for the trial of European British subjects.

The officer commanding the station where the Court of Session shall, when required, send in to the Court a list containing the names of all officers so liable to serve.

The summons to any such officer to serve as a juror shall be sent through the officer commanding the station; but no officer shall be excused from attendance, unless the officer commanding the station shall certify in writing to the Court that the presence of the officer summoned is required elsewhere on urgent military duty: and in such certificate the commanding officer shall supply the name of some other officer for service upon the jury.

64. Sentences of death passed in the exercise of the powers conferred by section sixty-two shall not be carried out without the confirmation of the High Court, to which such sentences shall be referred.

(d). *Admiralty Jurisdiction.*

65. Throughout British Burma, including the territorial waters thereof, the Recorder shall have and exercise all such civil jurisdiction and maritime jurisdiction of a civil nature as may now be exercised by the High Court as a Court of Admiralty or of Vice-Admiralty, and also such jurisdiction for the trial and adjudication of prize-causes and other maritime questions as may now be exercised by the said High Court.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be regulated, as far as may be, by the Code of Civil Procedure; and in all such cases to which the rules contained in the said Code are not applicable, the procedure shall be in accordance with the rules for the time applicable to like cases in the High Court.

An appeal shall lie to the High Court from any sentence or decree of the Recorder under this section subject to the laws, rules and orders for the time being in force regarding appeals to the High Court under the Code of Civil Procedure.

(e). *Insolvent Jurisdiction.*

66. Within the Towns of Rangoon, Maulmain, Akyab and Bassein, the Recorder shall have and exercise such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exercisable with respect to insolvent debtors and their creditors by the High Court or a Judge thereof, in Calcutta.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the 11th & 12th of Victoria, chapter twenty-one.

The Recorder shall, with the previous sanction of the Chief Commissioner, appoint a person to be

official assignee in all insolvencies to be prosecuted in the Court of the Recorder; and the provisions of the said Statute relating to official assignees shall, *mutatis mutandis*, apply to the assignee so appointed.

Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof,

and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

Any person thinking himself aggrieved by any adjudication, order or proceeding of the Court of the Recorder under this section may present, within one month thereafter, a petition to the Special Court; and such Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

The Recorder may, from time to time, with the previous sanction of the Chief Commissioner, make rules consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given; and such rules, on being published in the *British Burma Gazette*, shall have the force of law.

No conveyance, letter-of-attorney, or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section, shall be chargeable with stamp-duty.

(f). *Rules, Forms and Registers.*

67. The Recorder may—

(a) make and issue general rules for regulating the practice and procedure of his Court and the levy of costs in suits therein,

(b) prescribe forms for every proceeding in his Court for which he thinks that a form should be provided, and

(c) from time to time alter any such rule or form.

The rules so made, and the forms so framed, shall be published in the *British Burma Gazette*, and after being so published shall be observed and used in the said Court:

Provided that such rules and forms shall be consistent with the Codes of Civil and Criminal Procedure and any other law for the time being in force in British Burma, and shall, before they are so published, have received the sanction of the Chief Commissioner.

68. The Recorder may, with the previous sanction of the Chief Commissioner, make, and from time to time alter, rules to regulate the service and execution of the processes of his Court within the local limits of his jurisdiction; and may from time to time settle tables of fees to be allowed to the persons employed in such service or execution.

Rules for service and execution of process.

Table of fees.

All such rules and tables shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Publication of rules and tables.

Rules heretofore made to regulate the service and execution of process under Act No. XXI of 1863 (to constitute *Recorders' Courts for the Towns of Akyab, Rangoon and Maulmain in British Burma*; and to establish *Courts of Small Causes in the said Towns*), or Act No. III of 1866 (to confer certain increased powers on the *Registrars of the Recorders' Courts in British Burma and for other purposes*) and now in force shall continue in force until superseded by rules made under this Act.

69. The Recorder shall keep such registers and books and accounts, and submit to the Chief Commissioner such statements and returns as may, subject to the approval of the Governor General in Council, be prescribed by the Chief Commissioner.

The Recorder shall also comply with such requisitions for information as are made by the Chief Commissioner, and, generally, in matters not judicial, shall be subject to the control of the Chief Commissioner.

(g). *Ministerial Officers.*

70. The ministerial officers of the Court of the Recorder of Rangoon shall be appointed by the Recorder, who may also remove or suspend them, or fine them in an amount not exceeding one month's salary; but the suspension or removal of any officer drawing a salary of one hundred rupees or upwards shall be subject to the orders of the Chief Commissioner.

(h). *Holidays.*

71. The Recorder shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in his Court, and shall submit the same for the sanction of the Chief Commissioner.

Such list, when it has received such sanction, shall be published in the *British Burma Gazette*, and the said holidays and vacations shall be observed accordingly.

CHAPTER V.

OF THE SPECIAL COURT.

72. The Special Court under this Act shall ordinarily be constituted by the Judicial Commissioner and the Recorder of Rangoon sitting together; but the Chief Commissioner may direct any Commissioner to sit in the Court, during the hearing of any case, as an additional Judge. Such Commissioner shall record his opinion in the case, and in case of a difference of opinion, the opinion of the majority shall be the decision of the Court.

When the Judicial Commissioner and Recorder sit together as a Special Court, the senior officer, according to priority of appointment, shall have the precedence in the Court so formed.

73. The Special Court shall ordinarily be held in the Town of Rangoon; but the Chief Commissioner may direct it to be held at any other place in British Burma.

The Special Court shall use a seal of such form and dimensions as the Chief Commissioner from time to time directs.

74. The Judicial Commissioner and the Recorder of Rangoon may from time to time, with the previous sanction of the Chief Commissioner—

(a) make rules for regulating the times and places of the sittings of the Special Court, the reception of applications relating to appeals to such Court, and the distribution of business between the Judges composing it; provided that such rules are consistent with this Act and other laws for the time being in force in British Burma,

(b) make rules to regulate the service and execution of the process of the Special Court; and

(c) settle a table of fees to be allowed to persons employed in such service or execution.

Such rules and table shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

The Judicial Commissioner and Recorder may also appoint, suspend or remove the ministerial officers of the Special Court: Provided that the suspension or removal of any officer drawing a salary of one hundred rupees and upwards shall be subject to the orders of the Chief Commissioner.

Provided also that in case the Judicial Commissioner and Recorder differ in opinion as to any matter mentioned in this section, such matter shall be referred to the Chief Commissioner, whose order thereon shall be final.

Appeals from certain orders of Judicial Commissioner and Judge of Maulmain.

75. Appeals from orders and decrees passed by—

(a) the Judicial Commissioner in the exercise of any jurisdiction transferred to him under section twenty-three, or

(b) the Judge of the Town of Maulmain in civil suits and proceedings,

shall, where an appeal is allowed by law, be heard and determined by the Special Court.

76. If in any civil suit or appeal, or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, the one Court wishes to obtain the opinion of the other on any question of fact or law, or usage having the force of law, or the construction of a document, or wishes to obtain the assistance of the other for the determination of the case pending before it, such Court shall record a memorandum to that effect; and after the receipt of a copy of such memorandum by the other Court, the said Judicial Commissioner and Recorder shall sit together as soon as may be convenient, and shall form a Special Court for the disposal of the said question or for the determination of the case so pending.

In case of difference of opinion, that of the Court which sought the opinion of the other shall prevail.

77. The Chief Commissioner may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, shall be transferred to and tried before the Special Court.

78. Any decree or sentence passed by a Special Court as above constituted on a memorandum recorded under section seventy-six, or in a case tried under section seventy-seven, shall issue as, and be deemed to be, a decree or sentence of the Court from which the case was referred to the Special Court.

79. With reference to all trials held by the Judicial Commissioner or the Recorder of Rangoon in the exercise of any original criminal jurisdiction (including jurisdiction transferred under section thirty-six), and to sentences passed on such trials, the Special Court shall be deemed to be, for the purposes of appeal and otherwise, a High Court:

Provided that nothing in the former part of this section applies to sentences of death passed by the Recorder on European British subjects or on persons charged jointly with European British subjects.

80. Whenever, in cases tried by the Judicial Commissioner and Recorder of Rangoon sitting together as a Special Court without a Commissioner, a difference of opinion arises, the following rules shall be observed:—

(a). In cases coming before the Special Court by way of appeal, and not being criminal cases, if the Judicial Commissioner and Recorder do not concur in a judgment varying the decision appealed from, such decision shall be upheld. Provided that if the difference of opinion arise as to some point of law, or custom having the force of law, or the admissibility of evidence or construction of a document affecting the merits of the case, and if either the Judicial Commissioner or the Recorder be of opinion that the point should be referred to the High Court, they shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

(b). In criminal cases and in cases not coming before the Special Court by way of appeal, the Judicial Commissioner and the Recorder shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

81. Where in any case a statement is forwarded under section eighty, the case shall be deemed to be pending in the Special Court until it is finally decided under the provisions hereinafter contained.

82. The High Court shall proceed to decide any point stated under section eighty as if it were an appeal instituted in such Court, except that it shall not be necessary for the parties to appear either personally or by agent. A copy of the decision of the High Court shall be sent to the Special Court, and such Court shall proceed to dispose of the case conformably with that decision.

The costs, if any, consequent on the statement under section eighty, of any case for the opinion of the High Court, shall be costs in the suit or appeal.

83. For the purposes of the Court Fees Act, 1870, the Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

For the purposes of the Indian Limitation Act, 1871, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Civil Procedure or under the Code of Criminal Procedure, as the case may be.

CHAPTER VI.

OF ADVOCATES.

(a). *In the Court of the Recorder and the Courts subordinate to him.*

84. No person shall be permitted to appear, plead, or act as the Advocate of any suitor in the Court of the Recorder, or in any Court subordinate to him, unless such person has been licensed thereto by the Recorder, either generally or specially.

The Recorder may make rules for the qualification and admission of proper persons to act as Advocates in such Courts, and may from time to time cancel, vary or add to, any such rules:

Provided that nothing in this section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting on his own behalf or on behalf of a co-suitor:

Provided also that any person, who for the time being is an Advocate, Vakil, or Attorney-at-law of any of the High Courts of Judicature in India, shall be entitled, without any such license, to act as an Advocate for any suitor in the Court of the Recorder and the Courts subordinate to him.

85. The Recorder may, for any sufficient reason, by order suspend or withdraw any license granted under section eighty-four.

Any person aggrieved by such order may appeal to the High Court, and for the purposes of the Limitation Act his appeal shall be deemed to be an appeal under the Code of Civil Procedure.

(b). *In the Court of the Judicial Commissioner and the Courts subordinate thereto.*

86. No person shall be permitted to appear, plead or act as the Advocate of any suitor, or of any appellant, complainant or accused person, in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto,

unless such person is licensed thereto by the Judicial Commissioner, either generally or specially.

Rules for their qualification and admission.

The Judicial Commissioner may from time to time make rules—

(a) for the qualification, admission and enrolment of proper persons to appear, plead or act as aforesaid; and

(b) for the suspension or dismissal of any such persons who are guilty of fraudulent or grossly improper conduct.

All such rules shall be published in the *British Burma Gazette*.

Any person appearing, pleading or acting in contravention of any such rule, shall be liable, by order of the Court, to a fine not exceeding five hundred rupees.

Saving of agents of Government, suitors, co-suitors, and Advocates of High Courts.

87. Notwithstanding anything contained in section eighty-six, or in any rule made thereunder,

any person may appear, plead or act as the agent for the Crown or for the Secretary of State for India in Council,

and any suitor may appear, plead or act on behalf of himself or a co-suitor;

and any person who for the time being is an Advocate, Vakil or Attorney-at-law of any High Court may appear, plead or act as the Advocate of any suitor in the Court of the Judicial Commissioner or any Court subordinate thereto.

And nothing contained in section eighty-six, or in any rule made thereunder, shall be deemed to affect the second clause of section 186 of the Code of Criminal Procedure.

(c). *In the Special Court.*

88. All persons for the time being licensed to appear, &c., in Special Court of the Recorder or the Court of the Judicial Commissioner shall be also entitled to appear, plead or act (as the case may be) in the Special Court.

(d.) *Advocates' Fees.*

89. The fees to be received by any Advocate, for business done in any Court under this Act, shall at all times be subject to the control and taxation of the presiding Judge; and no such fees shall be recoverable unless they have been allowed on taxation by the said Judge, or such officer as he appoints in this behalf.

CHAPTER VII.

MISCELLANEOUS.

90. The Judicial Commissioner may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in his own Court and in Courts subordinate to him.

The Recorder of Rangoon may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in his own Court and in Courts subordinate to him.

And the Special Court may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in such Court.

91. The Judicial Commissioner, the Recorder of Rangoon, and the Judges of the Special Court may respectively make rules to provide for—

(a) the recording of their respective judgments, orders and sentences;

(b) the taking down in their respective Courts of the evidence of witnesses; and

(c) the admission in their respective Courts of affidavits as evidence of the matters to which such affidavits respectively relate.

And the Chief Commissioner, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder, or the Special Court (as the case may be) from the operation of such parts of the Code of Civil Procedure and the Code of Criminal Procedure as relate to the mode of recording judgments, orders and sentences and to permit admission of affidavits. and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid.

92. If any assessor is appointed under section thirty-three or section fifty Remuneration to assessor appointed at desire of parties, or any of them, such parties or party shall deposit such sum as the Judicial Commissioner or Recorder, as the case may be, decides to be reasonable compensation to such assessor for his time and trouble. Such sum shall be recoverable as costs in the cause.

93. Instead of the last paragraph of section seven of the Prisoners' Testimony Act, 1869, the following shall be read:—

“For the purposes of this Act, every jail in British Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner; and the Recorder of Rangoon may issue orders, under this section or sections three or four, and may also issue commissions under Part III of this Act, in any jail in British Burma.”

94. Notwithstanding anything contained in Act No. XI of 1865, section fifteen, the Government of India shall have, and be deemed to have had, power from time to time to invest any person with the powers of a Judge of the Court of Small Causes in the Town of Rangoon, or elsewhere in British Burma, without specifying any time during which he shall exercise such powers. And all persons so invested shall be deemed to have been duly invested under the same section.

Saving of Acts XIX of 1841, XL of 1858, IX of 1861, as regards British Burma.

95. Notwithstanding any repeal effected by the Burma Courts Act, 1872, section five, the following Acts, namely,—

Act No. XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in case of successions*), and

Act No. XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*),

are hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout British Burma:

And Act No. XIV of 1859 (*to provide for the limitation of suits*) as amended by Act No. XIV of 1862, 1859 as regards Pegu. shall be deemed to have been in force throughout the Province of Pegu from the same day down to and including the thirty-first day of March 1873.

96. The Judge of the Town of Maulmain shall, for the purposes of the European British Minors Act, No. XIII of 1874, 1874, sections two and eight, be deemed to be a Deputy Commissioner: pro-

vided that appeals from his orders under that Act shall lie to the Special Court.

97. Save as otherwise provided by this Act, the Code of Civil Procedure shall be, and shall on and from the fifth day of April, 1872, be deemed to have been, in force throughout British Burma.

98. The unrepealed parts of the following Regulations extended to British Burma. shall, *mutatis mutandis*, be deemed to extend to British Burma, namely:—

Regulation V of 1799, section seven—Wills and Intestacies of Natives;
 „ V of 1817—Hidden treasure; and
 „ III of 1818—State Prisoners.

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India.

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SIMLA, SATURDAY, SEPTEMBER 25, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th September 1875, and is hereby promulgated for general information :—

ACT No. XVII OF 1875.

THE BURMA COURTS ACT, 1875.

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 88. Persons entitled to appear, &c., in Special Court.
- (d). *Advocates' Fees.*
 89. Fees liable to taxation.

CHAPTER VII.

MISCELLANEOUS.

90. Power to make rules as to costs.
91. Power to make rules for recording judgments, taking down evidence and admission of affidavits. Power to exempt from provisions of Procedure Codes relating to such subjects, and to permit admission of affidavits.
92. Remuneration to assessors appointed at desire of suitor.
93. Amendment of section 7, Act XV of 1869.
94. Powers of Small Cause Court Judge in Rangoon.
95. Saving of Acts XIX of 1841; XL of 1858, IX of 1861, as regards British Burma, and of Act XIV of 1859 as regards Pegu.
96. Application of Act No. XIII of 1874.
97. Civil Procedure Code applied to British Burma.
98. Regulations extended to British Burma.

An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.

Whereas it is expedient to consolidate and amend the law relating to the Courts in British Burma, and to extend to that Province certain Regulations of the Bengal Code; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Burma Courts Act, 1875."

Short title.

It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma;

Extent.

Commencement. And it shall come into force on the passing thereof.
2. Acts No. VII of 1872 (*to consolidate and amend the law relating to the Courts in British Burma*) and No. I of 1873 (*to amend the Burma Courts Act, 1872*) are repealed. But all rules made, directions given and powers conferred under either of the said Acts shall be deemed to have been respectively made, given and conferred hereunder.

Repeal of Acts.

And nothing herein contained shall render invalid the trials mentioned in section fourteen of the latter Act.
3. In this Act—unless there be something repugnant in the subject or context—

Interpretation-clause.

"Chief Commissioner" means the Chief Commissioner of British Burma;

"High Court" means the High Court of Judicature at Fort William in Bengal; and

"Judicial Commissioner" means the Judicial Commissioner of British Burma.

CHAPTER II.

LAW TO BE ADMINISTERED.

4. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,

Certain decisions to be according to Native law.

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindú law in cases where the parties are Hindús,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in British Burma.

In cases not provided for by the former part of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

5. Except as provided in section four, all questions arising in suits before the Recorder of Rangoon shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Law to be administered in Court of Recorder of Rangoon.

CHAPTER III.

OF THE COURT OF THE JUDICIAL COMMISSIONER AND THE COURTS SUBORDINATE THERETO.

(a). Grades of Courts.

6. Besides the Courts of Small Causes, the Court of the Recorder of Rangoon and the Special Court hereinafter mentioned, there shall be six grades of Civil Courts in British Burma, (namely):—

(a) the Court of the Extra Assistant Commissioner of the third class:

(b) the Courts of the Extra Assistant Commissioner of the second class, the Extra Assistant Commissioner of the first class, and the Assistant Commissioner:

(c) the Court of the Deputy Commissioner:

(d) the Court of the Judge of the Town of Maulmain:

(e) the Court of the Commissioner; and

(f) the Court of the Judicial Commissioner.

7. All existing Courts, corresponding to the Courts mentioned in clauses (a), (b), (c), (d), (e) and (f) of section six, and the presiding officers and the local limits of the jurisdiction thereof, respectively, shall be deemed to have been respectively established, appointed and fixed under this Act.

(b). Number and local jurisdiction of Courts.

8. The Governor General in Council may from time to time vary the number of Courts of each grade established under this Act.

Power to vary number of Courts.

9. The Chief Commissioner may, with the previous sanction of the Governor General in Council, from time to time vary the local limits of the jurisdiction of any Court mentioned in section six, clauses (a), (b), (c), (d), (e) and (f).

Power to vary local jurisdiction of Courts of grades (a), (b), (c), (d), (e) and (f).

10. Every such Court shall—

(a) be held at such place or places as may from time to time be directed by the Chief Commissioner; or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit, and

(b) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner.

Seal to be used.

11. The general superintendence over all the Courts mentioned in section six, clauses (a), (b), (c), (d) and (e) is vested in, and the said Courts shall be subordinate to, the Judicial

Superintendence over Courts.

Commissioner; and, subject to such general superintendence, the Commissioner shall control the Courts of the Deputy Commissioners within his Division; and the Deputy Commissioner shall control the Courts of grades (a) and (b) within his district.

(c). Civil Jurisdiction.

12. The Courts mentioned in the first column of the subjoined table shall ordinarily have such civil jurisdiction respectively, for the adjudication of suits as is specified in the second column thereof:—

Name and grade of Court.	Extent of jurisdiction.
(a). The Court of the Extra Assistant Commissioner of the third class.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed five hundred rupees.
(b). The Court of the Extra Assistant Commissioner of the second class, the Court of the Extra Assistant Commissioner of the first class, and the Court of the Assistant Commissioner.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed three thousand rupees.
(c). The Court of the Deputy Commissioner.	Powers of a Civil Court in all suits, whatever be the amount or value of the subject-matter thereof.
(d). The Court of the Judge of the Town of Maulmain.	Powers of a District Judge. Power to hear appeals from decrees and orders in original suits and proceedings of the Courts of grades (a) and (b), where such appeal is allowed by law. Power to direct the business in the Courts of grades (a) and (b) to be distributed among such Courts in such way as he thinks fit.
(e). The Court of the Commissioner.	Powers of a District Judge. Powers of a Civil Court, whatever be the amount or value of the subject-matter of the suit. Powers of a Court of Small Causes, where the amount or value of the subject-matter of the suit does not exceed one thousand rupees. Power to withdraw any suit or appeal instituted in any Court within the local limits of his jurisdiction, except a Court of Small Causes or the Court of the Judge of the Town of Maulmain, and try such suit or appeal himself or refer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter thereof. Power to hear appeals from decrees and orders in original suits and proceedings of the Court of grade (c), where such appeal is allowed by law.

Name and grade of Court.	Extent of jurisdiction.
(f). The Court of the Judicial Commissioner.	<p>Powers of a High Court, in relation to all Courts in British Burma, including Small Cause Courts, except the Court of the Recorder of Rangoon, and the Court of Small Causes of Rangoon.</p> <p>Power to remove and try any suit, appeal or other proceeding instituted in any subordinate Court except a Court of Small Causes, or to refer it to any Court of competent jurisdiction as to the value or amount of the subject-matter thereof.</p> <p>Power to hear appeals from decrees and orders in original suits and proceedings of the Court of the Commissioner, where such appeal is allowed by law.</p>

Provided that, where a Court of Small Causes is established within the local limits of the jurisdiction of any Court of the said grade (a), (b) or (c), such Court shall not take cognizance of any suit cognizable by the Court of Small Causes so established.

(d). *Special Civil Jurisdiction.*

13. The Chief Commissioner may invest any Chief Commissioner Assistant Commissioner, or may give special jurisdiction. Extra Assistant Commissioner of the first or second class, with power to try suits, the subject-matter of which does not exceed in amount or value five thousand rupees.

14. The Chief Commissioner may invest any Chief Commissioner may invest certain Courts with powers of Judge of Court of Small Causes. presiding officer of the Courts of grades (a) and (b) mentioned in section six with the powers of a Judge of a Court of Small Causes, to hear and determine suits of a nature cognizable by a Court of Small Causes, and the subject-matter of which is of such amount or value as the Chief Commissioner thinks fit, not exceeding five hundred rupees.

Any Court so invested shall, in the exercise of the powers so conferred, be governed by the provisions of the law for the time being in force regulating the procedure of Courts of Small Causes outside the towns of Calcutta, Madras and Bombay.

15. The Chief Commissioner may extend the Power to extend Small Cause jurisdiction to Rs. 1,000. jurisdiction of any Court of Small Causes to suits of a nature cognizable by such Courts of which the subject-matter does not exceed in amount or value one thousand rupees.

16. The Chief Commissioner may empower the Exercise by one Court within limits of another of same class, of powers of latter. presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d) or (e), to exercise the powers which might be exercised by the presiding officer of any other Court of the same grade within the local limits of the jurisdiction of the latter Court.

17. The Chief Commissioner may confer upon the Power to confer powers of Deputy Commissioner's Court. the officer in chief executive charge of any district the powers which might be exercised within such district by the Court of a Deputy Commissioner.

(e). *Civil Procedure.*

18. Where a suit is brought for immoveable property situate within the local limits of the jurisdictions of different Courts included in the same Division, Procedure when subject-matter of suit is situate within jurisdiction of different Courts. application for authority to proceed with the same shall be made to the Commissioner of the Division.

If the said Courts belong to different Divisions, the application shall be made to the Judicial Commissioner through the Commissioner of the Division in which the Court wherein the suit was instituted is included.

If either of the said Courts is the Court of the Recorder of Rangoon, the application shall be made to the Special Court hereinafter mentioned.

19. No presiding officer of any Court mentioned in section six, clause Presiding officer of Court not to try suit or appeal in which he is interested; (a), (b), (c), (d), (e) or (f) shall, unless with the consent of the parties, or by the direction of the Chief Commissioner, try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal:

When any such suit, appeal or proceeding comes but in case of Courts subordinate to Judicial Commissioner, to transfer to superior Court; before the presiding officer of any Court subordinate to the Judicial Commissioner, he shall forthwith, unless the parties apply that he proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances of such transmission:

Such Court shall thereupon try the case itself, Procedure thereon. or transfer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter.

In the event of an appeal being preferred to the Appeal to Judicial Commissioner from order passed by him in other capacity or in which he is interested. Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall, unless

the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Judicial Commissioner to try the case himself, or transfer it to the Court of the Recorder of Rangoon.

20. Notwithstanding anything contained in the Code of Civil Procedure, Power to distribute business. section 6, every Deputy Commissioner may direct suits to be instituted in the Courts subordinate to him, according to such rules as to the description of the suits and the amount or value of their subject-matter as he from time to time, with the sanction of the Judicial Commissioner, prescribes in this behalf,

and may also, with the like sanction, direct the business of the said Courts to be distributed among them in such way as he thinks fit:

provided that no Court shall try any suit where the amount or value of the subject-matter exceeds its proper jurisdiction.

Notwithstanding anything contained in the same Code, sections 26 and 172, plaints may be written and evidence may be taken down in such language or languages as the Chief Commissioner from time to time directs in this behalf.

(f). *Civil Appeals.*

21. Subject to any express provision to the contrary contained in any Act for the time being in force in British Burma, an appeal shall lie from the decrees and orders of the Courts of original civil jurisdiction in British Burma to the Courts empowered by this Act to hear appeals from such decrees and orders.

All such appeals presented between the fifth day of April, 1872, and the passing of this Act, shall be deemed to have been presented under this section.

22. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order.

23. The Chief Commissioner may direct that the civil appellate jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.

The Chief Commissioner may also at any time direct that any appellate jurisdiction which has been so transferred to the Judicial Commissioner shall revert to the Commissioner from whom it was so transferred.

24. The Appellate Court may confirm the decision of the Lower Court without summoning the respondent, if upon perusal of the judgment of the Lower Court and of the petition of appeal in the presence of the appellant or his pleader, there appear to the Appellate Court to be no reason to alter the decision appealed from.

25. When in the trial of any civil appeal the Appellate Court entertains a doubt in regard to a question of law or usage having the force of law, or as to the construction of a document, or as to the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the point as to which it is in doubt, and refer it, with the Court's own opinion thereon, for the decision of the Judicial Commissioner.

26. The Judicial Commissioner shall, after considering the point so referred, send a ruling thereon to the Court by which the reference was made; and such Court shall, on the receipt of such ruling, proceed to dispose of the case in conformity therewith.

The costs, if any, consequent on any such reference to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

27. If in any suit the decision of the Deputy Commissioner or of the Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

28. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a matter of fact, such decision shall be final.

29. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence affecting the merits of the case, the party aggrieved by such decision may apply to such Court to draw up a statement of the point as to which he considers such Court to have made an incorrect ruling, and to submit it to the Judicial Commissioner, or to allow him to appeal on the same point to the Judicial Commissioner.

Such application or appeal shall not be admitted, unless it is made within the period prescribed by law for petitions of appeal. And if the statement is drawn up, or the appeal is allowed, the applicant shall be chargeable with the fee prescribed by law for petitions of appeal.

In the case of an application to draw up a statement, if the Court consider that there is a question of law or custom having the force of law, or as to the construction of a document or admissibility of evidence affecting the merits of the case, it shall draw up a statement of the same and of such facts only of the case as are necessary to explain it, and shall submit such statement, together with the record of the case, to the Judicial Commissioner.

If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of such reasons shall, on application to the Court, be furnished to any party to the suit.

The costs of a statement drawn up under this section shall be costs in the cause. The costs of an application under this section to be allowed to appeal shall, if the appeal be allowed, be disposed of by the Court of appeal.

30. The Judicial Commissioner shall, with as little delay as possible, proceed to try the case referred, as if it were an appeal instituted in his Court, except that it shall not be necessary for the parties to be present:

the Judicial Commissioner shall send a copy of his judgment to the Court by which the case was submitted, and the said Court shall dispose of the case in conformity with such judgment.

31. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal made or case referred under this Act, he may make a reference to the High Court, and shall send the record of the said appeal or case and all the proceedings connected therewith to the said Court.

The procedure prescribed by section thirty shall *mutatis mutandis* be followed by the High Court in the disposal of references made under this section.

32. The costs, if any, consequent on such reference shall be disposed of by the Judicial Commissioner.

33. For the trial of any civil appeal or reference under this Act, the Judicial Commissioner may constitute two or more persons assessors of his Court. Such persons shall attend during the trial and shall deliver their opinions in writing to be recorded on the proceedings. But the decision of the case shall rest with the Judicial Commissioner.

No officer of the Judicial Commissioner's Court shall be appointed an assessor under this section.

34. In any case in which a Court of first appeal has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section twenty-nine, the Judicial Commissioner may call for the record of the case, and may, on receipt of such record, proceed to try the case as if it were an appeal instituted in his own Court.

And in any case in which a Court of first appeal has submitted such a statement, but, in the opinion of the Judicial Commissioner, the statement is unduly limited, or justice cannot be done without re-hearing the case, the Judicial Commissioner may proceed to try the case as if it were an appeal instituted in his own Court.

The Judicial Commissioner shall send to the Court of first appeal a copy of his judgment in any case tried under this section, and the said Court shall dispose of the case in conformity with such judgment.

(g). *Criminal Jurisdiction.*

35. The Judicial Commissioner shall be deemed to have and to have had the powers of a High Court under the Code of Criminal Procedure in criminal matters in relation to all Courts in British Burma, except that of the Recorder of Rangoon, and except those of Magistrates within the local limits of the ordinary civil jurisdiction of the said Recorder:

The Commissioner shall be deemed to have and to have had the powers of a Sessions Judge;

The Judge of the Town of Maulmain shall have the powers of a Sessions Judge.

36. The Chief Commissioner may direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner either wholly or in respect of a particular case or class of cases,

and either for a specified time or until further orders. The Chief Commissioner may also at any time direct that any jurisdiction so transferred shall revert to the Commissioner from whom it was transferred.

(h). *Petitions to Judicial Commissioner when exercising transferred jurisdiction.*

37. When the civil or criminal appellate jurisdiction of any Commissioner has, under section twenty-three or section thirty-six, been transferred to the Judicial Commissioner,

(a) all petitions and other documents presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Court Fees Act, 1870, be deemed to have been presented to the Commissioner; and

(b) all appeals and applications presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Indian Limitation Act, 1871, be deemed to have been presented to him in the exercise of his ordinary jurisdiction.

(i). *Appointment and removal of Officers.*

38. The presiding officers of all the Courts under this Act, except that of the Extra Assistant Commissioner of the third class, shall be appointed by the Governor General in Council.

Extra Assistant Commissioners of the third class shall be appointed and may be removed by the Chief Commissioner.

39. The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor General in Council.

The presiding officer of any such Court, except the Courts of the Judicial Commissioner and the Recorder of Rangoon, may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor General in Council.

40. The ministerial officers of the Courts of grades (a) and (b) mentioned in section six shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

The ministerial officers of all other Courts under this Act shall be appointed by the presiding officers thereof;

provided that the appointment of every ministerial officer of a Court subordinate to the Judicial Commissioner, whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

41. Every Court of the grades (a) and (b) mentioned in section six may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order; and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of a Court subordinate to him.

The presiding officer of any of the Courts of grades (c), (d), (e) and (f) mentioned in section six, and of any Court of Small Causes, may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary; but in the case of Courts subordinate to the Judicial Commissioner, every such removal, suspension or fine shall be subject to review by him.

42. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

43. The Chief Commissioner shall have a power of general control over all appointments and removals of ministerial officers under this Act.

(k). *Holidays.*

44. Subject to the orders of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in his Court and the Courts subordinate to him.

Such list shall be published in the *British Burma Gazette*, and the days therein mentioned shall be observed accordingly.

CHAPTER IV.

OF THE COURT OF THE RECORDER OF RANGOON.

(a). *The Recorder.*

45. There shall continue to be a Court, to be called the Court of the Recorder of Rangoon.

The Recorder shall be appointed by the Governor General in Council, and shall be a Barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

He shall hold his Court ordinarily in the Town of Rangoon; but the Chief Commissioner may direct him on any particular occasion to hold his Court at Maulmain, Akyab, or Bassein, for the trial of civil suits or appeals transferred to him, or of criminal cases in which European British subjects are concerned.

The Recorder shall use a seal of such form and dimensions as are for the time being prescribed in this behalf by the Chief Commissioner.

46. Upon the occurrence of any vacancy in the office of Recorder of Rangoon, and during any absence of the Recorder, the Chief Commissioner may direct the Judicial Commissioner or any Commissioner to perform the duties of the Recorder;

and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill or officiate in the office of the Recorder, and has entered upon the discharge of the duties of such office, or until the Recorder resumes his duties.

(b). *Civil Jurisdiction.*

47. The present local limits of the jurisdiction of the Recorder of Rangoon shall be the local limits of the ordinary civil jurisdiction of the Recorder appointed under this Act; but the Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, vary such limits.

48. The Court of the Recorder shall have jurisdiction in the adjudication of suits of every description, except those which are cognizable by a Court of Small Causes, if, in the case of immoveable property, the subject-matter of the suit is situate, or if, in all other cases, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant or agent carries on business or works for gain, within the limits mentioned in section forty-seven.

A corporation or company having an office within such limits shall, when the cause of action, or a material part thereof, has arisen in British Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

49. There shall be no appeal from the decree or order of the Recorder passed in any original suit or proceeding where the amount or value of the subject-matter does not exceed three thousand rupees.

But where the amount or value of the suit or proceeding in the Recorder's Court exceeds three thousand rupees, and is less than ten thousand rupees, an appeal shall lie to the High Court: provided that the amount or value of the matter in dispute on appeal must exceed the former sum and be less than the latter.

50. For the trial of civil suits the Recorder may constitute one or more persons assessor or assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder.

No officer of the Recorder's Court shall be appointed an assessor under this section.

51. The Recorder shall within the local limits or of his ordinary civil jurisdiction, exercise the powers of a District Judge; and he shall also exercise the powers of a District Judge under Act No. IV of 1869 (*The Indian Divorce Act*) throughout British Burma.

52. The Recorder shall, in respect of the Court of Small Causes in Rangoon, exercise and perform the powers and duties of a High Court.

Recorder's powers in respect of Small Cause Court, Rangoon.

53. The Recorder may, if he thinks fit, grant a new trial in any suit tried by him, if, in suits relating to land or other immoveable property, such new trial be applied for within three months from the date of the decision, and, in all other cases, if it be applied for within thirty days from the date of the decision.

Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if such review be applied for within the period allowed for making such applications.

Provided also that, the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review, or for the costs of the new trial or review.

54. If in any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision, arises, on which the Recorder entertains any doubt, he may, either of his own motion, or on the application of the parties to the suit or either of them, draw up a statement of the case, and refer such statement, with his own opinion, for the decision of the High Court.

55. The Recorder may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the decision of the High Court on the point referred; but no execution shall be issued in any case in which a reference has been made to the High Court, until the receipt of its decision on such reference.

56. Cases referred under section fifty-four for the decision of the High Court shall be dealt with by a bench of two or more Judges of that Court.

57. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; but they shall not be bound so to appear; and the High Court, when it has heard and considered the case, shall transmit a copy of its decision, under the seal of the Court and the signature of the proper officer, to the Recorder, who shall, on the receipt thereof, dispose of the case conformably to the decision of the High Court.

Costs, if any, consequent on the reference of a case for the decision of the High Court, shall be costs in the suit.

Costs of reference to High Court.

58. The Chief Commissioner may direct the transfer to the Recorder's Court of any suit or appeal which may have been instituted in any other Court in British Burma.

Every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in such case and it had been instituted in his Court.

59. When any suit or proceeding comes before the Recorder of Rangoon, to or in which he is a party or personally interested, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Recorder to try the case himself, or transfer it to the Court of the Judicial Commissioner.

The Judicial Commissioner shall have the same jurisdiction in the adjudication of cases so transferred as the Recorder has in suits and proceedings cognizable by him under this Act, and the provisions of sections fifty-three to fifty-seven inclusive shall *mutatis mutandis* apply to such cases.

(c). *Criminal Jurisdiction.*

60. The Recorder shall exercise the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the local limits of his ordinary civil jurisdiction and (on the occasion and for the purpose mentioned in section forty-five, clause three) at Maulmain, Akyab and Bassein:

Provided that sentences of death passed by him as a Court of Session shall be subject to the confirmation of the Special Court.

For the purposes of section 64A of the Code of Criminal Procedure, the Court of the Recorder shall be deemed to be a High Court.

61. The Recorder shall have all the powers of a High Court under the Code of Criminal Procedure in respect of the Magistrates within the local limits of his ordinary civil jurisdiction and the proceedings of such Magistrates.

62. The Recorder shall have the powers of a High Court under the Code of Criminal Procedure for the trial of, and otherwise with reference to, European British subjects and persons charged jointly with European British subjects;

and all commitments of European British subjects and of persons charged jointly with European British subjects, on charges of offences committed within British Burma, which would according to the law of Criminal Procedure for the time being in force be made to a High Court, shall be made to his Court.

63. The proceedings on trials held by the Recorder for the trial of European British subjects, shall be regulated by the Code of Criminal Procedure:

Procedure.

Provided that European officers in the Military Service, Commissioned and Non-Commissioned, resident within ten miles of the place of sitting of the Court, shall be liable to serve as jurors for the trial of European British subjects.

The officer commanding the station where the List of officers liable to serve. Recorder is about to hold a Court of Session shall, when required, send in to the Court a list containing the names of all officers so liable to serve.

The summons to any such officer to serve as a juror shall be sent through the officer commanding the station; but no officer shall be excused from attendance, unless the officer commanding the station shall certify in writing to the Court that the presence of the officer summoned is required elsewhere on urgent military duty: and in such certificate the commanding officer shall supply the name of some other officer for service upon the jury.

64. Sentences of death passed in the exercise of the powers conferred by section sixty-two shall not be carried out without the confirmation of the High Court, to which such sentences shall be referred.

(d). *Admiralty Jurisdiction.*

65. Throughout British Burma, including the territorial waters thereof, the Recorder shall have and exercise all such civil jurisdiction and maritime jurisdiction of a civil nature as may now be exercised by the High Court as a Court of Admiralty or of Vice-Admiralty, and also such jurisdiction for the trial and adjudication of prize-causes and other maritime questions as may now be exercised by the said High Court.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be regulated, as far as may be, by the Code of Civil Procedure; and in all such cases to which the rules contained in the said Code are not applicable, the procedure shall be in accordance with the rules for the time applicable to like cases in the High Court.

An appeal shall lie to the High Court from any sentence or decree of the Recorder under this section subject to the laws, rules and orders for the time being in force regarding appeals to the High Court under the Code of Civil Procedure.

(e). *Insolvent Jurisdiction.*

66. Within the Towns of Rangoon, Maulmain Akyab and Bassein, the Recorder shall have and exercise such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exercisable with respect to insolvent debtors and their creditors by the High Court or a Judge thereof, in Calcutta.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the 11th & 12th of Victoria, chapter twenty-one.

The Recorder shall, with the previous sanction of the Chief Commissioner, appoint a person to be

official assignee in all insolvencies to be prosecuted in the Court of the Recorder; and the provisions of the said Statute relating to official assignees shall, *mutatis mutandis*, apply to the assignee so appointed.

Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof,

and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

Any person thinking himself aggrieved by any adjudication, order or proceeding of the Court of the Recorder under this section may present, within one month thereafter, a petition to the Special Court; and such Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

The Recorder may, from time to time, with the previous sanction of the Chief Commissioner, make rules consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given; and such rules, on being published in the *British Burma Gazette*, shall have the force of law.

No conveyance, letter-of-attorney, or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section, shall be chargeable with stamp-duty.

(f). *Rules, Forms and Registers.*

67. The Recorder may—

(a) make and issue general rules for regulating the practice and procedure of his Court and the levy of costs in suits therein,

(b) prescribe forms for every proceeding in his Court for which he thinks that a form should be provided, and

(c) from time to time alter any such rule or form.

The rules so made, and the forms so framed, shall be published in the *British Burma Gazette*, and after being so published shall be observed and used in the said Court:

Provided that such rules and forms shall be consistent with the Codes of Civil and Criminal Procedure and any other law for the time being in force in British Burma, and shall, before they are so published, have received the sanction of the Chief Commissioner.

68. The Recorder may, with the previous sanction of the Chief Commissioner, make; and from time to time alter, rules to regulate the service and execution of the processes of his Court within the local limits of his jurisdiction; and may from time to time settle tables of fees to be allowed to the persons employed in such service or execution.

Table of fees. All such rules and tables shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Publication of rules and tables.

Rules heretofore made to regulate the service and execution of process under Act No. XXI of 1863 (to constitute *Recorders' Courts for the Towns of Akyab, Rangoon and Maulmain in British Burma*; and to establish *Courts of Small Causes in the said Towns*), or Act No. III of 1866 (to confer certain increased powers on the *Registrars of the Recorders' Courts in British Burma and for other purposes*) and now in force shall continue in force until superseded by rules made under this Act.

69. The Recorder shall keep such registers and books and accounts, and submit to the Chief Commissioner such statements and returns as may, subject to the approval of the Governor General in Council, be prescribed by the Chief Commissioner.

The Recorder shall also comply with such requisitions for information as are made by the Chief Commissioner, and, generally, in matters not judicial, shall be subject to the control of the Chief Commissioner.

(g.) *Ministerial Officers.*

70. The ministerial officers of the Court of the Recorder of Rangoon shall be appointed by the Recorder, who may also remove or suspend them, or fine them in an amount not exceeding one month's salary; but the suspension or removal of any officer drawing a salary of one hundred rupees or upwards shall be subject to the orders of the Chief Commissioner.

(h.) *Holidays.*

71. The Recorder shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in his Court, and shall submit the same for the sanction of the Chief Commissioner.

Such list, when it has received such sanction, shall be published in the *British Burma Gazette*, and the said holidays and vacations shall be observed accordingly.

CHAPTER V.

OF THE SPECIAL COURT.

72. The Special Court under this Act shall ordinarily be constituted by the Judicial Commissioner and the Recorder of Rangoon sitting together; but the Chief Commissioner may direct any Commissioner to sit in the Court, during the hearing of any case, as an additional Judge. Such Commissioner shall record his opinion in the case, and in case of a difference of opinion, the opinion of the majority shall be the decision of the Court.

When the Judicial Commissioner and Recorder sit together as a Special Court, the senior officer, according to priority of appointment, shall have the precedence in the Court so formed.

73. The Special Court shall ordinarily be held in the Town of Rangoon; but the Chief Commissioner may direct it to be held at any other place in British Burma.

The Special Court shall use a seal of such form and dimensions as the Chief Commissioner from time to time directs.

Seal to be used.

74. The Judicial Commissioner and the Recorder of Rangoon may from time to time, with the previous sanction of the Chief Commissioner—

(a) make rules for regulating the times and places of the sittings of the Special Court, the reception of applications relating to appeals to such Court, and the distribution of business between the Judges composing it; provided that such rules are consistent with this Act and other laws for the time being in force in British Burma,

(b) make rules to regulate the service and execution of the process of the Special Court; and

(c) settle a table of fees to be allowed to persons employed in such service or execution.

Such rules and table shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

The Judicial Commissioner and Recorder may also appoint, suspend or remove the ministerial officers of the Special Court: Provided that the suspension or removal of any officer drawing a salary of one hundred rupees and upwards shall be subject to the orders of the Chief Commissioner.

Provided also that in case the Judicial Commissioner and Recorder differ in opinion as to any matter mentioned in this section, such matter shall be referred to the Chief Commissioner, whose order thereon shall be final.

Appeals from certain orders of Judicial Commissioner and Judge of Maulmain.

75. Appeals from orders and decrees passed by—

(a) the Judicial Commissioner in the exercise of any jurisdiction transferred to him under section twenty-three, or

(b) the Judge of the Town of Maulmain in civil suits and proceedings,

shall, where an appeal is allowed by law, be heard and determined by the Special Court.

76. If in any civil suit or appeal, or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, the one Court wishes to obtain the opinion of the other on any question of fact or law, or usage having the force of law, or the construction of a document, or wishes to obtain the assistance of the other for the determination of the case pending before it, such Court shall record a memorandum to that effect; and after the receipt of a copy of such memorandum by the other Court, the said Judicial Commissioner and Recorder shall sit together as soon as may be convenient, and shall form a Special Court for the disposal of the said question or for the determination of the case so pending.

In case of difference of opinion, that of the Court which sought the opinion of the other shall prevail.

77. The Chief Commissioner may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, shall be transferred to and tried before the Special Court.

78. Any decree or sentence passed by a Special Court as above constituted on a memorandum recorded under section seventy-six, or in a case tried under section seventy-seven, shall issue as, and be deemed to be, a decree or sentence of the Court from which the case was referred to the Special Court.

79. With reference to all trials held by the Judicial Commissioner or the Recorder of Rangoon in the exercise of any original criminal jurisdiction (including jurisdiction transferred under section thirty-six), and to sentences passed on such trials, the Special Court shall be deemed to be, for the purposes of appeal and otherwise, a High Court:

Provided that nothing in the former part of this section applies to sentences of death passed by the Recorder on European British subjects or on persons charged jointly with European British subjects.

80. Whenever, in cases tried by the Judicial Commissioner and Recorder of Rangoon sitting together as a Special Court without a Commissioner, a difference of opinion arises, the following rules shall be observed:—

(a). In cases coming before the Special Court by way of appeal, and not being criminal cases, if the Judicial Commissioner and Recorder do not concur in a judgment varying the decision appealed from, such decision shall be upheld. Provided that if the difference of opinion arise as to some point of law, or custom having the force of law, or the admissibility of evidence or construction of a document affecting the merits of the case, and if either the Judicial Commissioner or the Recorder be of opinion that the point should be referred to the High Court, they shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

(b). In criminal cases and in cases not coming before the Special Court by way of appeal, the Judicial Commissioner and the Recorder shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

81. Where in any case a statement is forwarded under section eighty, the case shall be deemed to be pending in the Special Court until it is finally decided under the provisions hereinafter contained.

82. The High Court shall proceed to decide any point stated under section eighty as if it were an appeal instituted in such Court, except that it shall not be necessary for the parties to appear either personally or by agent. A copy of the decision of the High Court shall be sent to the Special Court, and such Court shall proceed to dispose of the case conformably with that decision.

The costs, if any, consequent on the statement under section eighty, of any case for the opinion of the High Court, shall be costs in the suit or appeal.

83. For the purposes of the Court Fees Act, 1870, the Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

For the purposes of the Indian Limitation Act, 1871, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Civil Procedure or under the Code of Criminal Procedure, as the case may be.

CHAPTER VI.

OF ADVOCATES.

(a). *In the Court of the Recorder and the Courts subordinate to him.*

84. No person shall be permitted to appear, plead, or act as the Advocate of any suitor in the Court of the Recorder, or in any Court subordinate to him, unless such person has been licensed thereto by the Recorder, either generally or specially.

The Recorder may make rules for the qualification and admission of proper persons to act as Advocates in such Courts, and may from time to time cancel, vary or add to, any such rules:

Provided that nothing in this section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting on his own behalf or on behalf of a co-suitor:

Provided also that any person, who for the time being is an Advocate, Vakil, or Attorney-at-law of any of the High Courts of Judicature in India, shall be entitled, without any such license, to act as an Advocate for any suitor in the Court of the Recorder and the Courts subordinate to him.

85. The Recorder may, for any sufficient reason, by order suspend or withdraw any license granted under section eighty-four.

Any person aggrieved by such order may appeal to the High Court, and for the purposes of the Limitation Act his appeal shall be deemed to be an appeal under the Code of Civil Procedure.

(b). *In the Court of the Judicial Commissioner and the Courts subordinate thereto.*

86. No person shall be permitted to appear, plead or act as the Advocate of any suitor, or of any appellant, complainant or accused person, in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto,

unless such person is licensed thereto by the Judicial Commissioner, either generally or specially.

Rules for their qualification and admission.

The Judicial Commissioner may from time to time make rules—

(a) for the qualification, admission and enrolment of proper persons to appear, plead or act as aforesaid; and

(b) for the suspension or dismissal of any such persons who are guilty of fraudulent or grossly improper conduct.

All such rules shall be published in the *British Burma Gazette*.

Any person appearing, pleading or acting in contravention of any such rule, shall be liable, by order of the Court, to a fine not exceeding five hundred rupees.

Saving of agents of Government, suitors, co-suitors, and Advocates of High Courts,

87. Notwithstanding anything contained in section eighty-six, or in any rule made thereunder,

any person may appear, plead or act as the agent for the Crown or for the Secretary of State for India in Council,

and any suitor may appear, plead or act on behalf of himself or a co-sutor;

and any person who for the time being is an Advocate, Vakil or Attorney-at-law of any High Court may appear, plead or act as the Advocate of any suitor in the Court of the Judicial Commissioner or any Court subordinate thereto.

And nothing contained in section eighty-six, or in any rule made thereunder, shall be deemed to affect the second clause of section 186 of the Code of Criminal Procedure.

(c). *In the Special Court.*

88. All persons for the time being licensed to appear, plead or act in the Court of the Recorder or the Court of the Judicial Commissioner shall be also entitled to appear, plead or act (as the case may be) in the Special Court.

(d.) *Advocates' Fees.*

89. The fees to be received by any Advocate, for business done in any Court under this Act, shall at all times be subject to the control and taxation of the presiding Judge; and no such fees shall be recoverable unless they have been allowed on taxation by the said Judge, or such officer as he appoints in this behalf.

CHAPTER VII.

MISCELLANEOUS.

90. The Judicial Commissioner may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in his own Court and in Courts subordinate to him.

The Recorder of Rangoon may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in his own Court and in Courts subordinate to him.

And the Special Court may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in such Court.

91. The Judicial Commissioner, the Recorder of Rangoon, and the Judges of the Special Court may respectively make rules to provide for—

(a) the recording of their respective judgments, orders and sentences;

(b) the taking down in their respective Courts of the evidence of witnesses; and

(c) the admission in their respective Courts of affidavits as evidence of the matters to which such affidavits respectively relate.

And the Chief Commissioner, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder, or the Special Court (as the case may be) from the operation of such parts of the Code of Civil Procedure and the Code of Criminal Procedure as relate to the mode of recording judgments, orders and sentences and to permit admission of affidavits. and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid.

92. If any assessor is appointed under section thirty-three or section fifty at the desire of the parties, or any of them, such parties or party shall deposit such sum as the Judicial Commissioner or Recorder, as the case may be, decides to be reasonable compensation to such assessor for his time and trouble. Such sum shall be recoverable as costs in the cause.

93. Instead of the last paragraph of section seven of the Prisoners' Testimony Act, 1869, the following shall be read:—

“For the purposes of this Act, every jail in British Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner; and the Recorder of Rangoon may issue orders, under this section or sections three or four, and may also issue commissions under Part III of this Act, in any jail in British Burma.”

94. Notwithstanding anything contained in Act No. XI of 1865, section fifteen, the Government of India shall have, and be deemed to have had, power from time to time to invest any person with the powers of a Judge of the Court of Small Causes in the Town of Rangoon, or elsewhere in British Burma, without specifying any time during which he shall exercise such powers. And all persons so invested shall be deemed to have been duly invested under the same section.

Saving of Acts XIX of 1841, XL of 1858, IX of 1861, as regards British Burma,

95. Notwithstanding any repeal effected by the Burma Courts Act, 1872, section five, the following Acts, namely,—

Act No. XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in case of successions*), and

Act No. XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*),

are hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout British Burma:

And Act No. XIV of 1859 (*to provide for the limitation of suits*) as amended by Act No. XIV of 1862, 1859 as regards Pegu. shall be deemed to have been in force throughout the Province of Pegu from the same day down to and including the thirty-first day of March 1873.

96. The Judge of the Town of Maulmain shall, for the purposes of the European British Minors Act, No. XIII of 1874, 1874, sections two and eight, be deemed to be a Deputy Commissioner: pro-

vided that appeals from his orders under that Act shall lie to the Special Court.

97. Save as otherwise provided by this Act, the Code of Civil Procedure shall be, and shall on and from the fifth day of April, 1872, be deemed to have been, in force throughout British Burma.

98. The unrepealed parts of the following Regulations of the Bengal Code shall, *mutatis mutandis*, be deemed to extend to British Burma, namely:—

Regulation V of 1799, section seven—Wills and Intestacies of Natives;
 „ V of 1817—Hidden treasure; and
 „ III of 1818—State Prisoners.

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 2, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th September 1875, and is hereby promulgated for general information :—

ACT No. XVII OF 1875.

THE BURMA COURTS ACT, 1875.

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An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.

Whereas it is expedient to consolidate and amend the law relating to the Courts in British Burma, and to extend to that Province certain Regulations of the Bengal Code; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Burma Courts Act, 1875."

Short title.	Act, 1875."
It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma;	

Commencement.	And it shall come into force on the passing thereof.
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2. Acts No. VII of 1872 (*to consolidate and amend the law relating to the Courts in British Burma*) and No. I of 1873 (*to amend the Burma Courts Act, 1872*) are repealed. But all rules made, directions given and powers conferred under either of the said Acts shall be deemed to have been respectively made, given and conferred hereunder.

And nothing herein contained shall render invalid the trials mentioned in section fourteen of the latter Act.

3. In this Act—unless there be something repugnant in the subject or context—

"Chief Commissioner" means the Chief Commissioner of British Burma:

"High Court" means the High Court of Judicature at Fort William in Bengal; and
--

"Judicial Commissioner" means the Judicial Commissioner of British Burma.

CHAPTER II.

LAW TO BE ADMINISTERED.

4. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,

the Buddhist law in cases where the parties are Buddhists,
--

the Muhammadan law in cases where the parties are Muhammadans, and
--

the Hindú law in cases where the parties are Hindús,
--

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in British Burma.

In cases not provided for by the former part of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

5. Except as provided in section four, all questions arising in suits before the Recorder of Rangoon shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

CHAPTER III.

OF THE COURT OF THE JUDICIAL COMMISSIONER AND THE COURTS SUBORDINATE THERETO.

(a). *Grades of Courts.*

6. Besides the Courts of Small Causes, the Court of the Recorder of Rangoon and the Special Court hereinafter mentioned, there shall be six grades of Civil Courts in British Burma, (namely) :—

(a) the Court of the Extra Assistant Commissioner of the third class :

(b) the Courts of the Extra Assistant Commissioner of the second class, the Extra Assistant Commissioner of the first class, and the Assistant Commissioner :

(c) the Court of the Deputy Commissioner :

(d) the Court of the Judge of the Town of Maulmain :

(e) the Court of the Commissioner ; and

(f) the Court of the Judicial Commissioner.

7. All existing Courts, corresponding to the Courts mentioned in clauses (a), (b), (c), (d), (e) and (f) of section six, and the presiding officers and the local limits of the jurisdiction thereof, respectively, shall be deemed to have been respectively established, appointed and fixed under this Act.

(b). *Number and local jurisdiction of Courts.*

8. The Governor General in Council may from time to time vary the number of Courts of each grade established under this Act.

9. The Chief Commissioner may, with the previous sanction of the Governor General in Council, from time to time vary the local limits of the jurisdiction of any Court mentioned in section six, clauses (a), (b), (c), (d), (e) and (f).

10. Every such Court shall—

(a) be held at such place or places as may from time to time be directed by the Chief Commissioner ; or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit, and

(b) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner.

11. The general superintendence over all the Courts mentioned in section six, clauses (a), (b), (c), (d) and (e) is vested in, and the said Courts shall be subordinate to, the Judicial

Commissioner ; and, subject to such general superintendence, the Commissioner shall control the Courts of the Deputy Commissioners within his Division ; and the Deputy Commissioner shall control the Courts of grades (a) and (b) within his district.

(c). *Civil Jurisdiction.*

12. The Courts mentioned in the first column of the subjoined table shall ordinarily have such civil jurisdiction respectively, for the adjudication of suits as is specified in the second column thereof :—

Name and grade of Court.	Extent of jurisdiction.
(a). The Court of the Extra Assistant Commissioner of the third class.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed five hundred rupees.
(b). The Court of the Extra Assistant Commissioner of the second class, the Court of the Extra Assistant Commissioner of the first class, and the Court of the Assistant Commissioner.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed three thousand rupees.
(c). The Court of the Deputy Commissioner.	Powers of a Civil Court in all suits, whatever be the amount or value of the subject-matter thereof. Powers of a District Judge. Power to hear appeals from decrees and orders in original suits and proceedings of the Courts of grades (a) and (b), where such appeal is allowed by law. Power to direct the business in the Courts of grades (a) and (b) to be distributed among such Courts in such way as he thinks fit.
(d). The Court of the Judge of the Town of Maulmain.	Powers of a District Judge. Powers of a Civil Court, whatever be the amount or value of the subject-matter of the suit. Powers of a Court of Small Causes, where the amount or value of the subject-matter of the suit does not exceed one thousand rupees.
(e). The Court of the Commissioner.	Power to withdraw any suit or appeal instituted in any Court within the local limits of his jurisdiction, except a Court of Small Causes or the Court of the Judge of the Town of Maulmain, and try such suit or appeal himself or refer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter thereof. Power to hear appeals from decrees and orders in original suits and proceedings of the Court of grade (c), where such appeal is allowed by law.

Name and grade of Court.	Extent of jurisdiction.
(f). The Court of the Judicial Commissioner.	<p>Powers of a High Court, in relation to all Courts in British Burma, including Small Cause Courts, except the Court of the Recorder of Rangoon, and the Court of Small Causes of Rangoon.</p> <p>Power to remove and try any suit, appeal or other proceeding instituted in any subordinate Court except a Court of Small Causes, or to refer it to any Court of competent jurisdiction as to the value or amount of the subject-matter thereof.</p> <p>Power to hear appeals from decrees and orders in original suits and proceedings of the Court of the Commissioner, where such appeal is allowed by law.</p>

Provided that, where a Court of Small Causes is established within the local limits of the jurisdiction of any Court of the said grade (a), (b) or (c), such Court shall not take cognizance of any suit cognizable by the Court of Small Causes so established.

(d). *Special Civil Jurisdiction.*

13. The Chief Commissioner may invest any Chief Commissioner Assistant Commissioner, or Extra Assistant Commissioner of the first or second class, with power to try suits, the subject-matter of which does not exceed in amount or value five thousand rupees.

14. The Chief Commissioner may invest any Chief Commissioner presiding officer of the Courts of grades (a) and (b) mentioned in section six with the powers of a Judge of a Court of Small Causes, to hear and determine suits of a nature cognizable by a Court of Small Causes, and the subject-matter of which is of such amount or value as the Chief Commissioner thinks fit, not exceeding five hundred rupees.

Any Court so invested shall, in the exercise of the powers so conferred, be governed by the provisions of the law for the time being in force regulating the procedure of Courts of Small Causes outside the towns of Calcutta, Madras and Bombay.

15. The Chief Commissioner may extend the Power to extend Small Cause jurisdiction to Small Causes to suits of a nature cognizable by such Courts of which the subject-matter does not exceed in amount or value one thousand rupees.

16. The Chief Commissioner may empower the Exercise by one Court within limits of another of same class, of powers of latter. presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d) or (e), to exercise the powers which might be exercised by the presiding officer of any other Court of the same grade within the local limits of the jurisdiction of the latter Court.

17. The Chief Commissioner may confer upon Power to confer powers of Deputy Commissioner's Court. the officer in chief executive charge of any district the powers which might be exercised within such district by the Court of a Deputy Commissioner.

(e). *Civil Procedure.*

18. Where a suit is brought for immoveable property situate within the local limits of the jurisdiction of different Courts included in the same Division, application for authority to proceed with the same shall be made to the Commissioner of the Division.

If the said Courts belong to different Divisions, the application shall be made to the Judicial Commissioner through the Commissioner of the Division in which the Court wherein the suit was instituted is included.

If either of the said Courts is the Court of the Recorder of Rangoon, the application shall be made to the Special Court hereinafter mentioned.

19. No presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d), (e) or (f) shall, unless with the consent of the parties, or by the direction of the Chief Commissioner, try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal:

When any such suit, appeal or proceeding comes before the presiding officer of any Court subordinate to the Judicial Commissioner, he shall forthwith, unless the parties apply that he proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances of such transmission:

Such Court shall thereupon try the case itself, or transfer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter.

In the event of an appeal being preferred to the Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Judicial Commissioner to try the case himself, or transfer it to the Court of the Recorder of Rangoon.

20. Notwithstanding anything contained in the Code of Civil Procedure, section 6, every Deputy Commissioner may direct suits to be instituted in the Courts subordinate to him, according to such rules as to the description of the suits and the amount or value of their subject-matter as he from time to time, with the sanction of the Judicial Commissioner, prescribes in this behalf,

and may also, with the like sanction, direct the business of the said Courts to be distributed among them in such way as he thinks fit:

provided that no Court shall try any suit where the amount or value of the subject-matter exceeds its proper jurisdiction.

Notwithstanding anything contained in the same Code, sections 26 and 172, ^{Language of plaints and record of evidence.} plaints may be written and evidence may be taken down in such language or languages as the Chief Commissioner from time to time directs in this behalf.

(f). *Civil Appeals.*

21. Subject to any express provision to the contrary contained in any Act for the time being in force in British Burma, an appeal shall lie from the decrees and orders of the Courts of original civil jurisdiction in British Burma to the Courts empowered by this Act to hear appeals from such decrees and orders.

All such appeals presented between the fifth day of April, 1872, and the passing of this Act, shall be deemed to have been presented under this section.

22. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order.

23. The Chief Commissioner may direct that the civil appellate jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.

The Chief Commissioner may also at any time direct that any appellate jurisdiction which has been so transferred to the Judicial Commissioner shall revert to the Commissioner from whom it was so transferred.

24. The Appellate Court may confirm the decision of the Lower Court without summoning the respondent, if upon perusal of the judgment of the Lower Court and of the petition of appeal in the presence of the appellant or his pleader, there appear to the Appellate Court to be no reason to alter the decision appealed from.

25. When in the trial of any civil appeal the Appellate Court entertains a doubt in regard to a question of law or usage having the force of law, or as to the construction of a document, or as to the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the point as to which it is in doubt, and refer it, with the Court's own opinion thereon, for the decision of the Judicial Commissioner.

26. The Judicial Commissioner shall, after considering the point so referred, send a ruling thereon to the Court by which the reference was made; and such Court shall, on the receipt of such ruling, proceed to dispose of the case in conformity therewith.

The costs, if any, consequent on any such reference to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

27. If in any suit the decision of the Deputy Commissioner or of the Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

28. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a matter of fact, such decision shall be final.

29. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence affecting the merits of the case, the party aggrieved by such decision may apply to such Court to draw up a statement of the point as to which he considers such Court to have made an incorrect ruling, and to submit it to the Judicial Commissioner, or to allow him to appeal on the same point to the Judicial Commissioner.

Such application or appeal shall not be admitted, unless it is made within the period prescribed by law for petitions of appeal. And if the statement is drawn up, or the appeal is allowed, the applicant shall be chargeable with the fee prescribed by law for petitions of appeal.

In the case of an application to draw up a statement, if the Court consider that there is a question of law or custom having the force of law, or as to the construction of a document or admissibility of evidence affecting the merits of the case, it shall draw up a statement of the same and of such facts only of the case as are necessary to explain it, and shall submit such statement, together with the record of the case, to the Judicial Commissioner.

If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of such reasons shall, on application to the Court, be furnished to any party to the suit.

The costs of a statement drawn up under this section shall be costs in the cause. The costs of an application under this section to be allowed to appeal shall, if the appeal be allowed, be disposed of by the Court of appeal.

30. The Judicial Commissioner shall, with as little delay as possible, proceed to try the case referred, as if it were an appeal instituted in his Court, except that it shall not be necessary for the parties to be present:

the Judicial Commissioner shall send a copy of his judgment to the Court by which the case was submitted, and the said Court shall dispose of the case in conformity with such judgment.

31. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal made or case referred under this Act, he may make a reference to the High Court, and shall send the record of the said appeal or case and all the proceedings connected therewith to the said Court.

The procedure prescribed by section thirty shall *mutatis mutandis* be followed by the High Court in the disposal of references made under this section.

32. The costs, if any, consequent on such reference shall be disposed of by the Judicial Commissioner.

33. For the trial of any civil appeal or reference under this Act, the Judicial Commissioner may constitute two or more persons assessors of his Court. Such persons shall attend during the trial and shall deliver their opinions in writing to be recorded on the proceedings. But the decision of the case shall rest with the Judicial Commissioner.

No officer of the Judicial Commissioner's Court shall be appointed an assessor under this section.

34. In any case in which a Court of first appeal has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section twenty-nine, the Judicial Commissioner may call for the record of the case, and may, on receipt of such record, proceed to try the case as if it were an appeal instituted in his own Court.

And in any case in which a Court of first appeal has submitted such a statement, but, in the opinion of the Judicial Commissioner, the statement is unduly limited, or justice cannot be done without re-hearing the case, the Judicial Commissioner may proceed to try the case as if it were an appeal instituted in his own Court.

The Judicial Commissioner shall send to the Court of first appeal a copy of his judgment in any case tried under this section, and the said Court shall dispose of the case in conformity with such judgment.

(g). Criminal Jurisdiction.

35. The Judicial Commissioner shall be deemed to have and to have had the powers of a High Court under the Code of Criminal Procedure in criminal matters in relation to all Courts in British Burma, except that of the Recorder of Rangoon, and except those of Magistrates within the local limits of the ordinary civil jurisdiction of the said Recorder:

The Commissioner shall be deemed to have and to have had the powers of a Sessions Judge:

The Judge of the Town of Maulmain shall have the powers of a Sessions Judge.

36. The Chief Commissioner may direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner either wholly or in respect of a particular case or class of cases,

and either for a specified time or until further orders. The Chief Commissioner may also at any time direct that any jurisdiction so transferred shall revert to the Commissioner from whom it was transferred.

(h). Petitions to Judicial Commissioner when exercising transferred jurisdiction.

37. When the civil or criminal appellate jurisdiction of any Commissioner has, under section twenty-three or section thirty-six, been transferred to the Judicial Commissioner,

(a) all petitions and other documents presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Court Fees Act, 1870, be deemed to have been presented to the Commissioner: and

(b) all appeals and applications presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Indian Limitation Act, 1871, be deemed to have been presented to him in the exercise of his ordinary jurisdiction.

(i). Appointment and removal of Officers.

38. The presiding officers of all the Courts under this Act, except that of the Extra Assistant Commissioner of the third class, shall be appointed by the Governor General in Council.

Extra Assistant Commissioners of the third class shall be appointed and may be removed by the Chief Commissioner.

39. The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor General in Council.

The presiding officer of any such Court, except the Courts of the Judicial Commissioner and the Recorder of Rangoon, may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor General in Council.

40. The ministerial officers of the Courts of grades (a) and (b) mentioned in section six shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

The ministerial officers of all other Courts under this Act shall be appointed by the presiding officers thereof;

provided that the appointment of every ministerial officer of a Court subordinate to the Judicial Commissioner, whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

41. Every Court of the grades (a) and (b) mentioned in section six may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order; and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of a Court subordinate to him.

The presiding officer of any of the Courts of grades (c), (d), (e) and (f) mentioned in section six, and of any Court of Small Causes, may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary; but in the case of Courts subordinate to the Judicial Commissioner, every such removal, suspension or fine shall be subject to review by him.

42. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

43. The Chief Commissioner shall have a power of general control over all appointments and removals of ministerial officers under this Act.

(k). *Holidays.*

44. Subject to the orders of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in his Court and the Courts subordinate to him.

Such list shall be published in the *British Burma Gazette*, and the days therein mentioned shall be observed accordingly.

CHAPTER IV.

OF THE COURT OF THE RECORDER OF RANGOON.

(a). *The Recorder.*

45. There shall continue to be a Court, to be called the Court of the Recorder of Rangoon.

The Recorder shall be appointed by the Governor General in Council, and shall be a Barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

He shall hold his Court ordinarily in the Town of Rangoon; but the Chief Commissioner may direct him on any particular occasion to hold his Court at Maulmain, Akyab, or Bassein, for the trial of civil suits or appeals transferred to him, or of criminal cases in which European British subjects are concerned.

The Recorder shall use a seal of such form and dimensions as are for the time being prescribed in this behalf by the Chief Commissioner.

46. Upon the occurrence of any vacancy in the office of Recorder of Rangoon, and during any absence of the Recorder, the Chief Commissioner may direct the Judicial Commissioner or any Commissioner to perform the duties of the Recorder;

and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill or officiate in the office of the Recorder, and has entered upon the discharge of the duties of such office, or until the Recorder resumes his duties.

(b). *Civil Jurisdiction.*

47. The present local limits of the jurisdiction of the Recorder of Rangoon shall be the local limits of the ordinary civil jurisdiction of the Recorder appointed under this Act; but the Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, vary such limits.

48. The Court of the Recorder shall have jurisdiction in the adjudication of suits of every description, except those which are cognizable by a Court of Small Causes, if, in the case of immoveable property, the subject-matter of the suit is situate, or if, in all other cases, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant or agent carries on business or works for gain, within the limits mentioned in section forty-seven.

A corporation or company having an office within such limits shall, when the cause of action, or a material part thereof, has arisen in British Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

49. There shall be no appeal from the decree or order of the Recorder passed in any original suit or proceeding where the amount or value of the subject-matter does not exceed three thousand rupees.

But where the amount or value of the suit or proceeding in the Recorder's Court exceeds three thousand rupees, and is less than ten thousand rupees, an appeal shall lie to the High Court: provided that the amount or value of the matter in dispute on appeal must exceed the former sum and be less than the latter.

50. For the trial of civil suits the Recorder may constitute one or more persons assessor or assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder.

No officer of the Recorder's Court shall be appointed an assessor under this section.

51. The Recorder shall within the local limits of his ordinary civil jurisdiction, exercise the powers of a District Judge; and he shall also exercise the powers of a District Judge under Act No. IV of 1869 (*The Indian Divorce Act*) throughout British Burma.

52. The Recorder shall, in respect of the Court of Small Causes in Rangoon, exercise and perform the powers and duties of a High Court.

Recorder's powers in respect of Small Cause Court, Rangoon.

53. The Recorder may, if he thinks fit, grant a new trial in any suit tried by him, if, in suits relating to land or other immoveable property, such new trial be applied for within three months from the date of the decision, and, in all other cases, if it be applied for within thirty days from the date of the decision.

Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if such review be applied for within the period allowed for making such applications.

Provided also that, the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review, or for the costs of the new trial or review.

54. If in any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision, arises, on which the Recorder entertains any doubt, he may, either of his own motion, or on the application of the parties to the suit or either of them, draw up a statement of the case, and refer such statement, with his own opinion, for the decision of the High Court.

55. The Recorder may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the decision of the High Court on the point referred; but no execution shall be issued in any case in which a reference has been made to the High Court, until the receipt of its decision on such reference.

56. Cases referred under section fifty-four for the decision of the High Court shall be dealt with by a bench of two or more Judges of that Court.

57. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; but they shall not be bound so to appear; and the High Court, when it has heard and considered the case, shall transmit a copy of its decision, under the seal of the Court and the signature of the proper officer, to the Recorder, who shall, on the receipt thereof, dispose of the case conformably to the decision of the High Court.

Costs, if any, consequent on the reference of a case for the decision of the High Court, shall be costs in the suit.

Costs of reference to High Court.

58. The Chief Commissioner may direct the transfer to the Recorder's Court of any suit or appeal which may have been instituted in any other Court in British Burma.

Every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in such case and it had been instituted in his Court.

59. When any suit or proceeding comes before the Recorder of Rangoon, to whom or in which he is a party or personally interested, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Recorder to try the case himself, or transfer it to the Court of the Judicial Commissioner.

The Judicial Commissioner shall have the same jurisdiction in the adjudication of cases so transferred as the Recorder has in suits and proceedings cognizable by him under this Act, and the provisions of sections fifty-three to fifty-seven inclusive shall *mutatis mutandis* apply to such cases.

(c). *Criminal Jurisdiction.*

60. The Recorder shall exercise the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the local limits of his ordinary civil jurisdiction and (on the occasion and for the purpose mentioned in section forty-five, clause three) at Maulmain, Akyab and Bassein:

Provided that sentences of death passed by him as a Court of Session shall be subject to the confirmation of the Special Court.

For the purposes of section 64A of the Code of Criminal Procedure, the Court of the Recorder shall be deemed to be a High Court.

61. The Recorder shall have all the powers of a High Court under the Code of Criminal Procedure in respect of the Magistrates within the local limits of his ordinary civil jurisdiction and the proceedings of such Magistrates.

62. The Recorder shall have the powers of a High Court under the Code of Criminal Procedure for the trial of, and otherwise with reference to, European British subjects and persons charged jointly with European British subjects;

and all commitments of European British subjects and of persons charged jointly with European British subjects, on charges of offences committed within British Burma, which would according to the law of Criminal Procedure for the time being in force be made to a High Court, shall be made to his Court.

63. The proceedings on trials held by the Recorder for the trial of European British subjects, shall be regulated by the Code of Criminal Procedure:

Provided that European officers in the Military Service, Commissioned and Non-Commissioned, resident within ten miles of the place of sitting of the Court, shall be liable to serve as jurors for the trial of European British subjects.

The officer commanding the station where the Court of Session shall, when required, send in to the Court a list containing the names of all officers so liable to serve.

The summons to any such officer to serve as a juror shall be sent through the officer commanding the station; but no officer shall be excused from attendance, unless the officer commanding the station shall certify in writing to the Court that the presence of the officer summoned is required elsewhere on urgent military duty: and in such certificate the commanding officer shall supply the name of some other officer for service upon the jury.

64. Sentences of death passed in the exercise of the powers conferred by section sixty-two shall not be carried out without the confirmation of the High Court, to which such sentences shall be referred.

(d). *Admiralty Jurisdiction.*

65. Throughout British Burma, including the territorial waters thereof, the Recorder shall have and exercise all such civil jurisdiction and maritime jurisdiction of a civil nature as may now be exercised by the High Court as a Court of Admiralty or of Vice-Admiralty, and also such jurisdiction for the trial and adjudication of prize-causes and other maritime questions as may now be exercised by the said High Court.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be regulated, as far as may be, by the Code of Civil Procedure; and in all such cases to which the rules contained in the said Code are not applicable, the procedure shall be in accordance with the rules for the time applicable to like cases in the High Court.

An appeal shall lie to the High Court from any sentence or decree of the Recorder under this section subject to the laws, rules and orders for the time being in force regarding appeals to the High Court under the Code of Civil Procedure.

(e). *Insolvent Jurisdiction.*

66. Within the Towns of Rangoon, Maulmain Akyab and Bassein, the Recorder shall have and exercise such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exercisable with respect to insolvent debtors and their creditors by the High Court or a Judge thereof, in Calcutta.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the 11th & 12th of Victoria, chapter twenty-one.

The Recorder shall, with the previous sanction of the Chief Commissioner, appoint a person to be

official assignee in all insolvencies to be prosecuted in the Court of the Recorder; and the provisions of the said Statute relating to official assignees shall, *mutatis mutandis*, apply to the assignee so appointed.

Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof,

and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

Any person thinking himself aggrieved by any adjudication, order or proceeding of the Court of the Recorder under this section may present, within one month thereafter, a petition to the Special Court; and such Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

The Recorder may, from time to time, with the previous sanction of the Chief Commissioner, make rules consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given; and such rules, on being published in the *British Burma Gazette*, shall have the force of law.

No conveyance, letter-of-attorney, or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section, shall be chargeable with stamp-duty.

(f). *Rules, Forms and Registers.*

67. The Recorder may—

(a) make and issue general rules for regulating the practice and procedure of his Court and the levy of costs in suits therein,

(b) prescribe forms for every proceeding in his Court for which he thinks that a form should be provided, and

(c) from time to time alter any such rule or form.

The rules so made, and the forms so framed, shall be published in the *British Burma Gazette*, and after being so published shall be observed and used in the said Court:

Provided that such rules and forms shall be consistent with the Codes of Civil and Criminal Procedure and any other law for the time being in force in British Burma, and shall, before they are so published, have received the sanction of the Chief Commissioner.

68. The Recorder may, with the previous sanction of the Chief Commissioner, make, and from time to time alter, rules to regulate the service and execution of the processes of his Court within the local limits of his jurisdiction; and may from time to time settle tables of fees to be allowed to the persons employed in such service or execution.

All such rules and tables shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Rules heretofore made to regulate the service and execution of process under Act No. XXI of 1863 (to constitute *Recorders' Courts for the Towns of Akyab, Rangoon and Maulmain in British Burma*; and to establish *Courts of Small Causes in the said Towns*), or Act No. III of 1866 (to confer certain increased powers on the Registrars of the *Recorders' Courts in British Burma and for other purposes*) and now in force shall continue in force until superseded by rules made under this Act.

69. The Recorder shall keep such registers and books and accounts, and submit to the Chief Commissioner such statements and returns as may, subject to the approval of the Governor General in Council, be prescribed by the Chief Commissioner.

The Recorder shall also comply with such requisitions for information as are made by the Chief Commissioner, and, generally, in matters not judicial, shall be subject to the control of the Chief Commissioner.

(g.) *Ministerial Officers.*

70. The ministerial officers of the Court of the Recorder of Rangoon shall be appointed by the Recorder, who may also remove or suspend them, or fine them in an amount not exceeding one month's salary; but the suspension or removal of any officer drawing a salary of one hundred rupees or upwards shall be subject to the orders of the Chief Commissioner.

(h.) *Holidays.*

71. The Recorder shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in his Court, and shall submit the same for the sanction of the Chief Commissioner.

Such list, when it has received such sanction, shall be published in the *British Burma Gazette*, and the said holidays and vacations shall be observed accordingly.

CHAPTER V.

OF THE SPECIAL COURT.

72. The Special Court under this Act shall ordinarily be constituted by the Judicial Commissioner and the Recorder of Rangoon sitting together; but the Chief Commissioner may direct any Commissioner to sit in the Court, during the hearing of any case, as an additional Judge. Such Commissioner shall record his opinion in the case, and in case of a difference of opinion, the opinion of the majority shall be the decision of the Court.

When the Judicial Commissioner and Recorder sit together as a Special Court, the senior officer, according to priority of appointment, shall have the precedence in the Court so formed.

73. The Special Court shall ordinarily be held in the Town of Rangoon; but the Chief Commissioner may direct it to be held at any other place in British Burma.

The Special Court shall use a seal of such form and dimensions as the Chief Commissioner from time to time directs.

Seal to be used.

74. The Judicial Commissioner and the Recorder of Rangoon may from time to time, with the previous sanction of the Chief Commissioner—

Rules and fees for Special Court.

(a) make rules for regulating the times and places of the sittings of the Special Court, the reception of applications relating to appeals to such Court, and the distribution of business between the Judges composing it; provided that such rules are consistent with this Act and other laws for the time being in force in British Burma,

(b) make rules to regulate the service and execution of the process of the Special Court; and

(c) settle a table of fees to be allowed to persons employed in such service or execution.

Such rules and table shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

The Judicial Commissioner and Recorder may also appoint, suspend or remove the ministerial officers of the Special Court: Provided that the suspension or removal of any officer drawing a salary of one hundred rupees and upwards shall be subject to the orders of the Chief Commissioner.

Provided also that in case the Judicial Commissioner and Recorder differ in opinion as to any matter mentioned in this section, such matter shall be referred to the Chief Commissioner, whose order thereon shall be final.

Appeals from certain orders of Judicial Commissioner and Judge of Maulmain.

75. Appeals from orders and decrees passed by—

(a) the Judicial Commissioner in the exercise of any jurisdiction transferred to him under section twenty-three, or

(b) the Judge of the Town of Maulmain in civil suits and proceedings,

shall, where an appeal is allowed by law, be heard and determined by the Special Court.

76. If in any civil suit or appeal, or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, the one Court wishes to obtain the opinion of the other on any question of fact or law, or usage having the force of law, or the construction of a document, or wishes to obtain the assistance of the other for the determination of the case pending before it, such Court shall record a memorandum to that effect; and after the receipt of a copy of such memorandum by the other Court, the said Judicial Commissioner and Recorder shall sit together as soon as may be convenient, and shall form a Special Court for the disposal of the said question or for the determination of the case so pending.

In case of difference of opinion, that of the Court which sought the opinion of the other shall prevail.

77. The Chief Commissioner may direct that Chief Commissioner any civil suit or appeal, or may direct cases to be any criminal case or appeal, tried by Special Court. pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, shall be transferred to and tried before the Special Court.

78. Any decree or sentence passed by a Special Decree of Special Court Court as above constituted to be deemed a decree of on a memorandum recorded original Court. under section seventy-six, or in a case tried under section seventy-seven, shall issue as, and be deemed to be, a decree or sentence of the Court from which the case was referred to the Special Court.

79. With reference to all trials held by the Special Court to be deemed a High Court in certain criminal matters. Judicial Commissioner or the Recorder of Rangoon in the exercise of any original criminal jurisdiction (including jurisdiction transferred under section thirty-six), and to sentences passed on such trials, the Special Court shall be deemed to be, for the purposes of appeal and otherwise, a High Court:

Provided that nothing in the former part of this section applies to sentences of death passed by the Recorder on European British subjects or on persons charged jointly with European British subjects.

80. Whenever, in cases tried by the Judicial Rules as to finding of Special Court in case of difference of opinion. Commissioner and Recorder of Rangoon sitting together as a Special Court without a Commissioner, a difference of opinion arises, the following rules shall be observed:—

(a). In cases coming before the Special Court by way of appeal, and not being criminal cases, if the Judicial Commissioner and Recorder do not concur in a judgment varying the decision appealed from, such decision shall be upheld. Provided that if the difference of opinion arise as to some point of law, or custom having the force of law, or the admissibility of evidence or construction of a document affecting the merits of the case, and if either the Judicial Commissioner or the Recorder be of opinion that the point should be referred to the High Court, they shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

(b). In criminal cases and in cases not coming before the Special Court by way of appeal, the Judicial Commissioner and the Recorder shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

81. Where in any case a statement is forwarded under section eighty, the Case to be deemed pending. case shall be deemed to be pending in the Special Court until it is finally decided under the provisions hereinafter contained.

82. The High Court shall proceed to decide Procedure of High Court on reference. any point stated under section eighty as if it were an appeal instituted in such Court, except that it shall not be necessary for the parties to appear either personally or by agent. A copy of the decision of the High Court shall be sent to the Special Court, and such Court shall proceed to dispose of the case conformably with that decision.

The costs, if any, consequent on the statement Costs of reference. under section eighty, of any case for the opinion of the High Court, shall be costs in the suit or appeal.

83. For the purposes of the Court Fees Act, Special Court to be deemed a High Court under Acts VII of 1870 and IX of 1871. 1870, the Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

For the purposes of the Indian Limitation Act, 1871, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Civil Procedure or under the Code of Criminal Procedure, as the case may be.

CHAPTER VI.

OF ADVOCATES.

(a). *In the Court of the Recorder and the Courts subordinate to him.*

84. No person shall be permitted to appear, plead, or act as the Advocate of any Licensing of Advocates. suitor in the Court of the Recorder, or in any Court subordinate to him, unless such person has been licensed thereto by the Recorder, either generally or specially.

The Recorder may make rules for the qualification and admission of proper Rules regarding qualifications and admission. persons to act as Advocates in such Courts, and may from time to time cancel, vary or add to, any such rules:

Provided that nothing in this section contained shall be deemed to prevent Saving of agent for Secretary of State, &c. any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting on his own behalf or on behalf of a co-suitor:

Provided also that any person, who for the time being is an Advocate, Vakil, Advocates, &c., of High Courts. or Attorney-at-law of any of the High Courts of Judicature in India, shall be entitled, without any such license, to act as an Advocate for any suitor in the Court of the Recorder and the Courts subordinate to him.

85. The Recorder may, for any sufficient reason, License may be suspended or withdrawn. by order suspend or withdraw any license granted under section eighty-four.

Any person aggrieved by such order may appeal to the High Court, and for the purposes of the Limitation Act his appeal shall be deemed to be an appeal under the Code of Civil Procedure.

(b). *In the Court of the Judicial Commissioner and the Courts subordinate thereto.*

86. No person shall be permitted to appear, plead or act as the Advocate Licensing of Advocates. of any suitor, or of any appellant, complainant or accused person, in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto,

unless such person is licensed thereto by the Judicial Commissioner, either generally or specially.

Rules for their qualification and admission. The Judicial Commissioner may from time to time make rules—

(a) for the qualification, admission and enrolment of proper persons to appear, plead or act as aforesaid; and

(b) for the suspension or dismissal of any such persons who are guilty of fraudulent or grossly improper conduct.

All such rules shall be published in the *British Burma Gazette*.

Any person appearing, pleading or acting in contravention of any such rule, shall be liable, by order of the Court, to a fine not exceeding five hundred rupees.

Saving of agents of Government, suitors, co-suitors, and Advocates of High Courts. 87. Notwithstanding anything contained in section eighty-six, or in any rule made thereunder,

any person may appear, plead or act as the agent for the Crown or for the Secretary of State for India in Council,

and any suitor may appear, plead or act on behalf of himself or a co-suitor;

and any person who for the time being is an Advocate, Vakil or Attorney-at-law of any High Court may appear, plead or act as the Advocate of any suitor in the Court of the Judicial Commissioner or any Court subordinate thereto.

And nothing contained in section eighty-six, or in any rule made thereunder, shall be deemed to affect the second clause of section 186 of the Code of Criminal Procedure.

(c). *In the Special Court.*

88. All persons for the time being licensed to appear, plead or act in the Court of the Recorder or the Court of the Judicial Commissioner shall be also entitled to appear, plead or act (as the case may be) in the Special Court.

(d.) *Advocates' Fees.*

89. The fees to be received by any Advocate, for business done in any Court under this Act, shall at all times be subject to the control and taxation of the presiding Judge; and no such fees shall be recoverable unless they have been allowed on taxation by the said Judge, or such officer as he appoints in this behalf.

CHAPTER VII.

MISCELLANEOUS.

90. The Judicial Commissioner may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in his own Court and in Courts subordinate to him.

Power to make rules as to costs. The Recorder of Rangoon may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in his own Court and in Courts subordinate to him.

And the Special Court may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in such Court.

91. The Judicial Commissioner, the Recorder of Rangoon, and the Judges of the Special Court may respectively make rules to provide for—

Power to make rules for recording judgments, taking down evidence and admission of affidavits. (a) the recording of their respective judgments, orders and sentences:

(b) the taking down in their respective Courts of the evidence of witnesses; and

(c) the admission in their respective Courts of affidavits as evidence of the matters to which such affidavits respectively relate.

And the Chief Commissioner, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder, or the Special Court (as the case may be) from the operation of such parts of the Code of Civil Procedure and the Code of Criminal Procedure as relate to the mode of recording judgments, orders and sentences and to permit admission of affidavits. and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid.

92. If any assessor is appointed under section thirty-three or section fifty at the desire of the parties, or any of them, such parties or party shall deposit such sum as the Judicial Commissioner or Recorder, as the case may be, decides to be reasonable compensation to such assessor for his time and trouble. Such sum shall be recoverable as costs in the cause.

93. Instead of the last paragraph of section seven of the Prisoners' Testimony Act, 1869, the following shall be read:—

“For the purposes of this Act, every jail in British Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner; and the Recorder of Rangoon may issue orders, under this section or sections three or four, and may also issue commissions under Part III of this Act, in any jail in British Burma.”

94. Notwithstanding anything contained in Act No. XI of 1865, section fifteen, the Government of India shall have, and be deemed to have had, power from time to time to invest any person with the powers of a Judge of the Court of Small Causes in the Town of Rangoon, or elsewhere in British Burma, without specifying any time during which he shall exercise such powers. And all persons so invested shall be deemed to have been duly invested under the same section.

Saving of Acts XIX of 1841, XL of 1858, IX of 1861, as regards British Burma,

95. Notwithstanding any repeal effected by the Burma Courts Act, 1872, section five, the following Acts, namely,—

Act No. XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in case of successions*), and

Act No. XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*),

are hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout British Burma:

And Act No. XIV of 1859 (*to provide for the limitation of suits*) as amended by Act No. XIV of 1862, 1859 as regards Pegu. shall be deemed to have been in force throughout the Province of Pegu from the same day down to and including the thirty-first day of March 1873.

96. The Judge of the Town of Maulmain shall, for the purposes of the European British Minors Act, No. XIII of 1874, sections two and eight, be deemed to be a Deputy Commissioner: pro-

vided that appeals from his orders under that Act shall lie to the Special Court.

97. Save as otherwise provided by this Act, the Code of Civil Procedure shall be, and shall on and from the fifth day of April, 1872, be deemed to have been, in force throughout British Burma.

98. The unrepealed parts of the following Regulations extended to British Burma. shall, *mutatis mutandis*, be deemed to extend to British Burma, namely:—

Regulation V of 1799, section seven—Wills and Intestacies of Natives;

„ V of 1817—Hidden treasure; and

„ III of 1818—State Prisoners.

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 23, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th October 1875, and is hereby promulgated for general information:—

ACT No. XVIII OF 1875.

An Act for the improvement of Law Reports.

Whereas it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality: And whereas with a view to furthering these objects, the Governor General in Council proposes to authorize the publication of reports of cases decided by the High Courts of Judicature established under the 24th & 25th of Victoria, Chapter 104; It is hereby enacted as follows:—

Short title. 1. This Act may be called
"The Indian Law Reports
Act, 1875."

Local extent. It extends to the whole
of British India;

And it shall come into force on such day as the
Governor General in Council
notifies in this behalf in

Commencement. the *Gazette of India*.

2. Act No. II of 1875 (*to diminish the multitude and improve the quality of Law Reports, and to extend the area of their authority*) is hereby repealed.

3. No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor General in Council.

4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th October 1875, and is hereby promulgated for general information:—

ACT No. XIX OF 1875.

An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.

Whereas it is expedient to give a right of appeal from certain decrees and orders of the Chief Court of the Panjáb, and to enable the appellate Court to remand suits and order retrials, and to empower Judges of the said Chief Court to make references as to points of law; It is hereby enacted as follows:—

1. Subject to the provisions hereinafter contained, an appeal shall lie in exercise of original jurisdiction from any decree or order (not being an order made in any criminal

trial) made in the exercise of original jurisdiction either by one Judge of the said Chief Court, or by a Bench of two Judges of the same Court, unless such Judges concur in the judgment.

When a suit is heard by a Bench of two Judges exercising original jurisdiction, the judgment of the senior Judge shall be the judgment of the Bench, and the decree or order shall follow thereupon, and any appeal therefrom shall be heard by a Full Bench.

If the decree or order appealed from was made by a single Judge, the appeal shall be heard either by the two other Judges of the said Chief Court or by a Full Bench, as the Court may determine, either by rule made under Act No. IV of 1866, section 43, or, in the absence of such rule, by order in the particular case.

When the appeal is heard by two Judges, and they do not concur in varying the decree or order appealed from, such decree or order shall be taken as the final decree or order of the said Chief Court, unless such Court orders (as it is hereby empowered to do) the appeal to be re-heard before the Full Bench.

2. Every appeal under this Act must be presented within thirty days from the date of the decree or order appealed against.

Time for presenting such appeals.

But if the period of limitation so prescribed expires on a day when the Court is closed, the appeal may be presented on the day that the Court re-opens.

3. Any such appeal may be admitted after the period of limitation so prescribed when the appellant satisfies the Court that he had sufficient cause for not presenting it within such period; and in the case of any decree against which the Chief Court has declared an appeal to Her Majesty in Council to be admitted under Act No. VI of 1874, the non-existence of this

Act shall be deemed to be sufficient cause within the meaning of this section: provided that the copy of the record has not been transmitted to Her Majesty in Council.

4. In computing such period, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.

5. When an appeal under this Act has been heard, the appellate Court may remand the suit in accordance either with section 371 or section 374 of the Code of Civil Procedure, or may order that the case be tried again either by a Full Bench or by the Court that has already tried it.

6. A single Judge, or a Bench of two Judges (whether exercising original or appellate jurisdiction), may refer for the decision of a Full Bench any question of law arising in any suit or on any appeal before such Judge or Bench of two Judges; and the Judge or Bench making the reference shall dispose of the case conformably to the decision of the Full Bench of the question so referred.

7. In case of a difference of opinion among the Judges forming the Full Bench as to the decision to be given on any question coming before them under any provision of this Act, such question shall be decided according to the opinion of the majority of such Judges.

8. This Act shall be read with, and taken as part of, the Panjáb Chief Court Act, 1866.

This Act to be read with Act IV of 1866.

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 16, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th October 1875, and is hereby promulgated for general information:—

ACT No. XVIII OF 1875.

An Act for the improvement of Law Reports.

Whereas it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality: And whereas with a view to furthering these objects, the Governor General in Council proposes to authorize the publication of reports of cases decided by the High Courts of Judicature established under the 24th & 25th of Victoria, Chapter 104; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Indian Law Reports Act, 1875."

Local extent. It extends to the whole of British India;

And it shall come into force on such day as the Governor General in Council

Commencement. notifies in this behalf in the *Gazette of India*.

2. Act No. II of 1875 (to diminish the multitude and improve the quality of Law Reports, and to extend the area of their authority) is hereby repealed.

3. No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor General in Council.

4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th October 1875, and is hereby promulgated for general information:—

ACT No. XIX OF 1875.

An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.

Whereas it is expedient to give a right of appeal from certain decrees and orders of the Chief Court of the Panjáb, and to enable the appellate Court to remand suits and order retrials, and to empower Judges of the said Chief Court to make references as to points of law; It is hereby enacted as follows:—

1. Subject to the provisions hereinafter contained, an appeal shall lie in exercise of original jurisdiction to the said Chief Court from any decree or order (not being an order made in any criminal

trial) made in the exercise of original jurisdiction either by one Judge of the said Chief Court, or by a Bench of two Judges of the same Court, unless such Judges concur in the judgment.

When a suit is heard by a Bench of two Judges exercising original jurisdiction, the judgment of the senior Judge shall be the judgment of the Bench, and the decree or order shall follow thereupon, and any appeal therefrom shall be heard by a Full Bench.

If the decree or order appealed from was made by a single Judge, the appeal shall be heard either by the two other Judges of the said Chief Court or by a Full Bench, as the Court may determine, either by rule made under Act No. IV of 1866, section 43, or, in the absence of such rule, by order in the particular case.

When the appeal is heard by two Judges, and they do not concur in varying the decree or order appealed from, such decree or order shall be taken as the final decree or order of the said Chief Court, unless such Court orders (as it is hereby empowered to do) the appeal to be re-heard before the Full Bench.

2. Every appeal under this Act must be presented within thirty days from the date of the decree or order appealed against.

Time for presenting such appeals.

But if the period of limitation so prescribed expires on a day when the Court is closed, the appeal may be presented on the day that the Court re-opens.

3. Any such appeal may be admitted after the period of limitation so prescribed when the appellant satisfies the Court that he had sufficient cause for not presenting it within such period; and in the case of any decree against which the Chief Court has declared an appeal to Her Majesty in Council to be admitted under Act No. VI of 1874, the non-existence of this

Act shall be deemed to be sufficient cause within the meaning of this section: provided that the copy of the record has not been transmitted to Her Majesty in Council.

4. In computing such period, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.

5. When an appeal under this Act has been heard, the appellate Court may remand the suit in accordance either with section 371 or section 374 of the Code of Civil Procedure, or may order that the case be tried again either by a Full Bench or by the Court that has already tried it.

6. A single Judge, or a Bench of two Judges (whether exercising original or appellate jurisdiction), may refer for the decision of a Full Bench any question of law arising in any suit or on any appeal before such Judge or Bench of two Judges; and the Judge or Bench making the reference shall dispose of the case conformably to the decision of the Full Bench of the question so referred.

Power to make reference on points of law.

7. In case of a difference of opinion among the Judges forming the Full Bench as to the decision to be given on any question coming before them under any provision of this Act, such question shall be decided according to the opinion of the majority of such Judges.

8. This Act shall be read with, and taken as part of, the Panjáb Chief Court Act, 1866.

This Act to be read with Act IV of 1866.

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 30, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th October 1875, and is hereby promulgated for general information:—

ACT No. XVIII OF 1875.

An Act for the improvement of Law Reports.

Whereas it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality: And whereas with a view to furthering these objects, the Governor General in Council proposes to authorize the publication of reports of cases decided by the High Courts of Judicature established under the 24th & 25th of Victoria, Chapter 104; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Indian Law Reports Act, 1875."

Local extent. It extends to the whole of British India;

And it shall come into force on such day as the Governor General in Council notifies in this behalf in the *Gazette of India*.

Commencement. 2. Act No. II of 1875 (to diminish the multitude and improve the quality of Law Reports, and to extend the area of their authority) is hereby repealed.

3. No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor General in Council.

4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th October 1875, and is hereby promulgated for general information:—

ACT No. XIX OF 1875.

An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.

Whereas it is expedient to give a right of appeal from certain decrees and orders of the Chief Court of the Panjáb, and to enable the appellate Court to remand suits and order retrials, and to empower Judges of the said Chief Court to make references as to points of law; It is hereby enacted as follows:—

1. Subject to the provisions hereinafter contained, an appeal shall lie in exercise of original jurisdiction to the said Chief Court from any decree or order (not being an order made in any criminal

trial) made in the exercise of original jurisdiction either by one Judge of the said Chief Court, or by a Bench of two Judges of the same Court, unless such Judges concur in the judgment.

When a suit is heard by a Bench of two Judges exercising original jurisdiction, the judgment of the senior Judge shall be the judgment of the Bench, and the decree or order shall follow thereupon, and any appeal therefrom shall be heard by a Full Bench.

If the decree or order appealed from was made by a single Judge, the appeal shall be heard either by the two other Judges of the said Chief Court or by a Full Bench, as the Court may determine, either by rule made under Act No. IV of 1866, section 43, or, in the absence of such rule, by order in the particular case.

When the appeal is heard by two Judges, and they do not concur in varying the decree or order appealed from, such decree or order shall be taken as the final decree or order of the said Chief Court, unless such Court orders (as it is hereby empowered to do) the appeal to be re-heard before the Full Bench.

2. Every appeal under this Act must be presented within thirty days from the date of the decree or order appealed against.

Time for presenting such appeals.

But if the period of limitation so prescribed expires on a day when the Court is closed, the appeal may be presented on the day that the Court re-opens.

3. Any such appeal may be admitted after the period of limitation so prescribed when the appellant satisfies the Court that he had sufficient cause for not presenting it within such period; and in the case of any decree against which the Chief Court has declared an appeal to Her Majesty in Council to be admitted under Act No. VI of 1874, the non-existence of this

Act shall be deemed to be sufficient cause within the meaning of this section: provided that the copy of the record has not been transmitted to Her Majesty in Council.

4. In computing such period, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.

5. When an appeal under this Act has been heard, the appellate Court may remand the suit in accordance either with section 371 or section 374 of the Code of Civil Procedure, or may order that the case be tried again either by a Full Bench or by the Court that has already tried it.

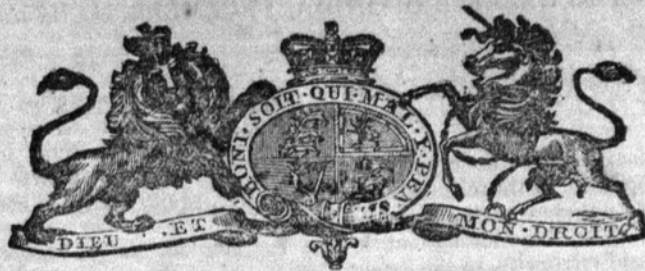
6. A single Judge, or a Bench of two Judges (whether exercising original or appellate jurisdiction), may refer for the decision of a Full Bench any question of law arising in any suit or on any appeal before such Judge or Bench of two Judges; and the Judge or Bench making the reference shall dispose of the case conformably to the decision of the Full Bench of the question so referred.

7. In case of a difference of opinion among Judges forming the Full Bench as to the decision to be given on any question coming before them under any provision of this Act, such question shall be decided according to the opinion of the majority of such Judges.

8. This Act shall be read with, and taken as part of, the Panjáb Chief Court Act, 1866.

This Act to be read with Act IV of 1866.

WHITLEY STOKES,
Secy. to the Govt. of India.



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CALCUTTA, SATURDAY, DECEMBER 11, 1875. { Register
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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th December 1875, and is hereby promulgated for general information:—

ACT No. XX OF 1875.

THE CENTRAL PROVINCES LAWS ACT, 1875.

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SCHEDULE.

An Act to declare and amend the Law in force in the Central Provinces.

WHEREAS it is expedient to declare and amend certain portions of the law in force in the Central Provinces; It is hereby enacted as follows:—

1. This Act may be called "The Central Provinces Laws Act, 1875."

Short title.

It extends to the territories now under the administration of the Chief Commissioner of the Central Provinces;

Local extent.

And it shall come into force on the passing thereof.

Commencement.

2. On and from the date on which this Act comes into force the following shall be repealed, that is to say,—

Repeal of enactments and rules.

(a) all Bengal Regulations except the Regulations or parts of Regulations hereinafter declared to be in force;

(b) all Acts of the Governor General in Council (except the Acts mentioned in the schedule hereto annexed), which do not expressly or by necessary implication extend to the said territories or any part thereof, and have not been extended thereto in exercise of a power conferred by an Act of the Governor General in Council;

(c) all rules, regulations and enactments not being Statutes, Bengal Regulations, Acts of the Governor General in Council, or rules or regulations made in exercise of a power conferred by a Statute, Bengal Regulation, or Act of the Governor General in Council;

Provided that nothing in this section shall affect any rules, regulations, enactments or laws relating to the settlement and collection of land-revenue or the jurisdiction of Courts of Wards, which may be in

Proviso as to law relating to land-revenue and Courts of Wards.

force at the passing of this Act in any part of the said territories.

3. On and from the said date the enactments specified in the schedule hereto annexed shall be deemed to be in force throughout the said territories, to the extent mentioned in the third column of the said schedule.

But the powers and duties incident to the operation of the same enactments, so far as such powers and duties are referred to in the fourth column of the said schedule, shall be exercised and performed by the authorities mentioned in that column.

Nothing in this section shall be deemed to affect the operation of any enactment not mentioned in the said schedule.

4. Every Act of the Governor General in Council, which extends, or can by notification be extended, to the territories which were under the administration of the said Chief Commissioner at the time of the passing thereof, shall extend, or may by notification be extended, as the case may be, to all the territories now under the administration of the said Chief Commissioner.

5. In questions regarding inheritance, special property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far as such law has been by legislative enactment altered or abolished, or is opposed to the provisions of this Act:

Provided that when among any class or body of persons or among the members of any family any custom prevails which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such custom shall, notwithstanding anything herein contained, be given effect to.

6. In cases not provided for by section five, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

7. Implements of husbandry and cattle for agricultural purposes and implements of trade are exempted from attachment and sale in execution of decrees of the civil Courts.

8. The said Chief Commissioner may from time to time make rules consistent with this Act as to the following matters:—

- (a) the maintenance of watch and ward and the establishment of a proper system of conservancy and sanitation at fairs and other large public assemblies;
- (b) the imposition of taxes for the purposes mentioned in clause (a) of this section on persons holding or joining any of the assemblies therein referred to;
- (c) the custody of judicial records, civil and criminal, and the destruction from time to time of such of the said records as it may be deemed unnecessary to keep;
- (d) the appointment, duties, punishment, suspension and dismissal of all ministerial officers.

9. The Chief Commissioner may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine, or both.

10. All rules made under this Act shall, when sanctioned by the Governor General in Council, be published in the *Central Provinces Gazette*, and shall thereupon have the force of law.

SCHEDULE.

(See section 3).

A.—BENGAL REGULATIONS.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
I of 1798 ...	The prevention of fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.	The whole ...	The functions of "the Dīwānī Adálat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act).

SCHEDULE,—(continued).

A.—BENGAL REGULATIONS,—continued.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
V of 1799 ...	Estates of Intestates.	Sections IV, V and VI ...	The functions of the Court of "Sadr Diwani Adalat" shall be performed by the Judicial Commissioner.
X of 1804 ...	Punishment of State offences by Courts Martial.	So much as has not been repealed.	
XI of 1806 ...	Passage of Troops	Sections II to VI and section VIII, with the exception of such part as authorizes Collectors and their Native Officers, or Magistrates and their Police Officers, to give their official aid in procuring "coolies" for the purpose of facilitating the march of troops or the progress of travellers, and with the exception, in section VIII, of the words and figures "under the rules prescribed by Regulation V, 1804."	The powers of the "Governor General in Council" and of the "Board of Revenue" shall be exercised by the Chief Commissioner.
XVII of 1806...	Redemption and foreclosure of mortgages and conditional sales of land under deeds of bai-bil-wafa, &c.	Sections VII and VIII ...	The functions of the "Zila or City Court of Diwani Adalat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act).
XX of 1810 ...	Camp-followers and Bazaris.	So much as has not been repealed, except sections I to III, VI, XX, and in section VII the words "as described in the plans."	
XI of 1812 ...	Foreign Immigrants.	So much as has not been repealed.	The powers of the "Nizamat Adalat" shall be exercised by the Judicial Commissioner.
V of 1817 ...	Hidden treasure..	So much of the Regulation as is not repealed, with the exception of— (a) the first portion of section V down to and including the words "to such treasure." (b) the following words in section VIII, that is to say, "on the application of the vakil of Government, under instructions from the Board of Revenue, or the Board of Commissioners in the Western Provinces, or the Commissioner in Behar and Benares."	The functions of the "Zila or City Court" shall be performed by the Court of the Deputy Commissioner; those of the "Provincial Court" by that of the Commissioner, and those of the "Sadr Diwani Adalat" by that of the Judicial Commissioner.

SCHEDULE,—(concluded).

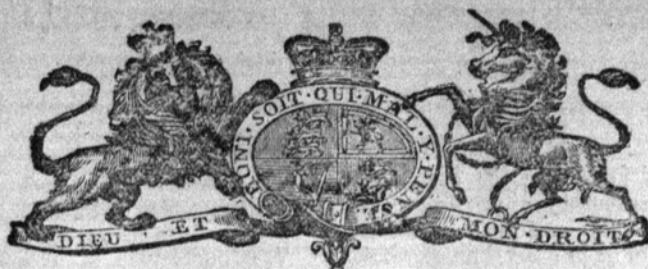
A.—BENGAL REGULATIONS,—concluded.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
III of 1818 ...	State Prisoners...	So much as has not been repealed.	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.
VI of 1819 ...	Ferries ...	So much as has not been repealed, with the exception of, in section VII, the words and figures "in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX, 1816," and in section X the words and figures from and including "in the manner" down to the end of the section.	
VI of 1825 ...	Supply of troops on the march.	The whole ...	
XI of 1825 ...	Alluvion and Diluvion.	The whole.	
XX of 1825 ...	Jurisdiction of Courts Martial.	Sections I and II.	
V of 1827 ...	Administration of landed property.	So much as has not been repealed, except the words and figures "and clauses five and six, section XVI, Regulation III, 1803."	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.

B.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year of Act.	Subject.	Extent of operation.
1	2	3
VIII of 1851...	Tolls on Roads and Bridges ...	The whole Act, except section one and the schedule.
XVIII of 1853	Sale of spirits in Cantonments...	The whole Act.
XIII of 1857...	Opium ...	Sections twenty-one, twenty-two, twenty-three, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine.
XL of 1858 ...	Minors ...	The whole Act, except section one, and subject to the amendment made by the Indian Majority Act, 1875.
XV of 1864 ...	Tolls ...	The whole Act.

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 18, 1875. { Register
No. 75.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th December 1875, and is hereby promulgated for general information:—

ACT No. XX OF 1875.

THE CENTRAL PROVINCES LAWS ACT, 1875.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Repeal of enactments and rules.
Proviso as to law relating to land-revenue and Courts of Wards.
3. Certain enactments to be deemed to be in force.
4. Confirmation of existing Acts.
5. Rules of decision in cases of certain classes.
6. Rule in cases not expressly provided for.
7. Articles exempt from attachment.
8. Power to make subsidiary rules.
9. Penalty for breach of rules.
10. Publication of rules.
Force of rules.

SCHEDULE.

An Act to declare and amend the Law in force in the Central Provinces.

WHEREAS it is expedient to declare and amend certain portions of the law in force in the Central Provinces; It is hereby enacted as follows:—

1. This Act may be called "The Central Provinces Laws Act, 1875:"
Short title.
It extends to the territories now under the administration of the Chief Commissioner of the Central Provinces;
Local extent.
And it shall come into force on the passing thereof.
Commencement.
2. On and from the date on which this Act comes into force the following shall be repealed, that is to say,—
Repeal of enactments and rules.
(a) all Bengal Regulations except the Regulations or parts of Regulations hereinafter declared to be in force;
(b) all Acts of the Governor General in Council (except the Acts mentioned in the schedule hereto annexed), which do not expressly or by necessary implication extend to the said territories or any part thereof, and have not been extended thereto in exercise of a power conferred by an Act of the Governor General in Council;
(c) all rules, regulations and enactments not being Statutes, Bengal Regulations, Acts of the Governor General in Council, or rules or regulations made in exercise of a power conferred by a Statute, Bengal Regulation, or Act of the Governor General in Council:
Provided that nothing in this section shall affect any rules, regulations, enactments or laws relating to the settlement and collection of land-revenue or the jurisdiction of Courts of Wards, which may be in
Proviso as to law relating to land-revenue and Courts of Wards.

force at the passing of this Act in any part of the said territories.

3. On and from the said date the enactments specified in the schedule here-
Certain enactments to be deemed to be in force. to annexed shall be deemed to be in force throughout the said territories, to the extent mentioned in the third column of the said schedule.

But the powers and duties incident to the operation of the same enactments, so far as such powers and duties are referred to in the fourth column of the said schedule, shall be exercised and performed by the authorities mentioned in that column.

Nothing in this section shall be deemed to affect the operation of any enactment not mentioned in the said schedule.

4. Every Act of the Governor General in Council, which extends, or can by
Confirmation of existing Acts. notification be extended, to the territories which were under the administration of the said Chief Commissioner at the time of the passing thereof, shall extend, or may by notification be extended, as the case may be, to all the territories now under the administration of the said Chief Commissioner.

5. In questions regarding inheritance, special
Rules of decision in cases of certain classes. property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far as such law has been by legislative enactment altered or abolished, or is opposed to the provisions of this Act:

Provided that when among any class or body of persons or among the members of any family any custom prevails which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such custom shall, notwithstanding anything herein contained, be given effect to.

6. In cases not provided for by section five, or by any other law for the time being in force, the
Rule in cases not expressly provided for. Courts shall act according to justice, equity and good conscience.

7. Implements of husbandry and cattle for agricultural purposes and
Articles exempt from attachment. implements of trade are exempted from attachment and sale in execution of decrees of the civil Courts.

8. The said Chief Commissioner may from time to time make rules consistent with this Act as to the
Power to make subsidiary rules. following matters:—

- (a) the maintenance of watch and ward and the establishment of a proper system of conservancy and sanitation at fairs and other large public assemblies;
- (b) the imposition of taxes for the purposes mentioned in clause (a) of this section on persons holding or joining any of the assemblies therein referred to;
- (c) the custody of judicial records, civil and criminal, and the destruction from time to time of such of the said records as it may be deemed unnecessary to keep;
- (d) the appointment, duties, punishment, suspension and dismissal of all ministerial officers.

9. The Chief Commissioner may, in making any rule under this Act,
Penalty for breach of rules. attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine, or both.

10. All rules made under this Act shall, when
Publication of rules. sanctioned by the Governor General in Council, be published in the *Central Provinces Gazette*, and shall thereupon have the force
Force of rules. of law.

SCHEDULE.

(See section 3).

A.—BENGAL REGULATIONS.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
1 of 1798 ...	The prevention of fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.	The whole ...	The functions of "the Dī-wānī Adālat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act).

SCHEDULE, —(continued).
A.—BENGAL REGULATIONS,—continued.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
V of 1799 ...	Estates of Intestates.	Sections IV, V and VI ...	The functions of the Court of "Sadr Diwání Adálat" shall be performed by the Judicial Commissioner.
X of 1804 ...	Punishment of State offences by Courts Martial.	So much as has not been repealed.	
XI of 1806 ...	Passage of Troops	Sections II to VI and section VIII, with the exception of such part as authorizes Collectors and their Native Officers, or Magistrates and their Police Officers, to give their official aid in procuring "coolies" for the purpose of facilitating the march of troops or the progress of travellers, and with the exception, in section VIII, of the words and figures "under the rules prescribed by Regulation V, 1804."	The powers of the "Governor General in Council" and of the "Board of Revenue" shall be exercised by the Chief Commissioner.
XVII of 1806...	Redemption and foreclosure of mortgages and conditional sales of land under deeds of bai-bil-wafa, &c.	Sections VII and VIII ...	The functions of the "Zila or City Court of Diwání Adálat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act).
XX of 1810 ...	Camp-followers and Bázárs.	So much as has not been repealed, except sections I to III, VI, XX, and in section VII the words "as described in the plans."	
XI of 1812 ...	Foreign Immigrants.	So much as has not been repealed.	The powers of the "Nizámat Adálat" shall be exercised by the Judicial Commissioner.
V of 1817 ...	Hidden treasure..	So much of the Regulation as is not repealed, with the exception of— (a) the first portion of section V down to and including the words "to such treasure." (b) the following words in section VIII, that is to say, "on the application of the vakíl of Government, under instructions from the Board of Revenue, or the Board of Commissioners in the Western Provinces, or the Commissioner in Behar and Benares."	The functions of the "Zila or City Court" shall be performed by the Court of the Deputy Commissioner; those of the "Provincial Court" by that of the Commissioner, and those of the "Sadr Diwání Adálat" by that of the Judicial Commissioner.

SCHEDULE,—(*concluded*).
A.—BENGAL REGULATIONS,—*concluded*.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
III of 1818 ...	State Prisoners...	So much as has not been repealed.	
VI of 1819 ...	Ferries ...	So much as has not been repealed, with the exception of, in section VII, the words and figures "in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX, 1816," and in section X the words and figures from and including "in the manner" down to the end of the section.	
VI of 1825 ...	Supply of troops on the march.	The whole ...	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.
XI of 1825 ...	Alluvion and Diluvion.	The whole.	
XX of 1825 ...	Jurisdiction of Courts Martial.	Sections I and II.	
V of 1827 ...	Administration of landed property.	So much as has not been repealed, except the words and figures "and clauses five and six, section XVI, Regulation III, 1803."	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.

B.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year of Act.	Subject.	Extent of operation.
1	2	3
VIII of 1851...	Tolls on Roads and Bridges ...	The whole Act, except section one and the schedule.
XVIII of 1853	Sale of spirits in Cantonments...	The whole Act.
XIII of 1857...	Opium ...	Sections twenty-one, twenty-two, twenty-three, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine.
XL of 1858 ...	Minors ...	The whole Act, except section one, and subject to the amendment made by the Indian Majority Act, 1875.
XV of 1864 ...	Tolls ...	The whole Act.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th December 1875, and is hereby promulgated for general information :—

ACT No. XXI OF 1875.

An Act to authorize the University at Calcutta to grant honorary degrees.

WHEREAS, under Act No. II of 1857, an University was established at Calcutta for the purpose of ascertaining by examination the persons who had acquired proficiency in different branches of Literature, Science and Art, and of rewarding them by academical degrees as evidence of their respective attainments : and by section eight of the same Act the Chancellor, Vice-Chancellor and Fellows for the time being of the said University were empowered to make bye-laws and regulations touching the examination for such degrees and the granting of the same ;

And whereas, by section eleven of the same Act, it was provided that the said Chancellor, Vice-Chancellor and Fellows should have power after examination to confer the several degrees therein mentioned ;

And whereas, under Act No. XLVII of 1860, the Chancellor, Vice-Chancellor and Fellows for the time being of the said University were empowered to confer such degrees as they should

appoint by bye-laws and regulations made and approved as therein mentioned ; and all the provisions of the said Act No. II of 1857 with respect to the degrees therein mentioned, and the examination for those degrees were declared to apply to degrees conferred under the said Act No. XLVII of 1860, and to the examinations for such degrees ;

And whereas, under bye-laws and regulations made in exercise of the said powers, the executive government of the said University is now vested in a Syndicate consisting of the Vice-Chancellor and six of the Fellows of the said University ; and it is the duty of the said Syndicate (among other things) to grant academical degrees ;

And whereas it is expedient to authorize the said Syndicate to grant such degrees to persons who have not undergone a previous examination ; It is hereby enacted as follows :—

1. With the previous consent of the said Chancellor, the said Syndicate for the time being may grant any academical degree to any person without requiring him to undergo any examination for such degree :

Provided that the said Vice-Chancellor and not less than four of the other members of the said Syndicate for the time being certify in writing that in his and their opinion such person is, by reason of eminent position and attainments, a fit and proper person to receive such degree.

WHITLEY STOKES,

Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 25, 1875. { Register
No. 75.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the
Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th December 1875, and is hereby promulgated for general information:—

ACT No. XX OF 1875.

THE CENTRAL PROVINCES LAWS ACT, 1875.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Repeal of enactments and rules.
Provido as to law relating to land-revenue and Courts of Wards.
3. Certain enactments to be deemed to be in force.
4. Confirmation of existing Acts.
5. Rules of decision in cases of certain classes.
6. Rule in cases not expressly provided for.
7. Articles exempt from attachment.
8. Power to make subsidiary rules.
9. Penalty for breach of rules.
10. Publication of rules.
Force of rules.

SCHEDULE.

An Act to declare and amend the Law in force in the Central Provinces.

WHEREAS it is expedient to declare and amend certain portions of the law in force in the Central Provinces; It is hereby enacted as follows:—

1. This Act may be called "The Central Provinces Laws Act, 1875:"

Short title.

It extends to the territories now under the administration of the Chief Commissioner of the Central Provinces;

Local extent.

And it shall come into force on the passing thereof.

Commencement.

2. On and from the date on which this Act comes into force the following shall be repealed, that is to say,—

Repeal of enactments and rules.

(a) all Bengal Regulations except the Regulations or parts of Regulations hereinafter declared to be in force;

(b) all Acts of the Governor General in Council (except the Acts mentioned in the schedule hereto annexed), which do not expressly or by necessary implication extend to the said territories or any part thereof, and have not been extended thereto in exercise of a power conferred by an Act of the Governor General in Council;

(c) all rules, regulations and enactments not being Statutes, Bengal Regulations, Acts of the Governor General in Council, or rules or regulations made in exercise of a power conferred by a Statute, Bengal Regulation, or Act of the Governor General in Council:

Provided that nothing in this section shall

Proviso as to law relating to land-revenue and Courts of Wards. affect any rules, regulations, enactments or laws relating to the settlement and collection of land-revenue or the jurisdiction of Courts of Wards, which may be in

force at the passing of this Act in any part of the said territories.

3. On and from the said date the enactments specified in the schedule here-
 Certain enactments to be deemed to be in force. to annexed shall be deemed to be in force throughout the said territories, to the extent mentioned in the third column of the said schedule.

But the powers and duties incident to the operation of the same enactments, so far as such powers and duties are referred to in the fourth column of the said schedule, shall be exercised and performed by the authorities mentioned in that column.

Nothing in this section shall be deemed to affect the operation of any enactment not mentioned in the said schedule.

4. Every Act of the Governor General in Council, which extends, or can by
 Confirmation of existing Acts. notification be extended, to the territories which were under the administration of the said Chief Commissioner at the time of the passing thereof, shall extend, or may by notification be extended, as the case may be, to all the territories now under the administration of the said Chief Commissioner.

5. In questions regarding inheritance, special
 Rules of decision in cases of certain classes. property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far as such law has been by legislative enactment altered or abolished, or is opposed to the provisions of this Act:

Provided that when among any class or body of persons or among the members of any family any custom prevails which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such custom shall, notwithstanding anything herein contained, be given effect to.

6. In cases not provided for by section five, or by any other law for the time being in force, the
 Rule in cases not expressly provided for. Courts shall act according to justice, equity and good conscience.

7. Implements of husbandry and cattle for agricultural purposes and
 Articles exempt from attachment. implements of trade are exempted from attachment and sale in execution of decrees of the civil Courts.

8. The said Chief Commissioner may from time to time make rules consistent with this Act as to the
 Power to make subsidiary rules. following matters:—

- (a) the maintenance of watch and ward and the establishment of a proper system of conservancy and sanitation at fairs and other large public assemblies;
- (b) the imposition of taxes for the purposes mentioned in clause (a) of this section on persons holding or joining any of the assemblies therein referred to;
- (c) the custody of judicial records, civil and criminal, and the destruction from time to time of such of the said records as it may be deemed unnecessary to keep;
- (d) the appointment, duties, punishment, suspension and dismissal of all ministerial officers.

9. The Chief Commissioner may, in making
 any rule under this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine, or both.

10. All rules made under this Act shall, when
 Publication of rules. sanctioned by the Governor General in Council, be published in the *Central Provinces Gazette*, and shall thereupon have the force of law.
 Force of rules.

SCHEDULE.

(See section 3).

A.—BENGAL REGULATIONS.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
1 of 1798 ...	The prevention of fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.	The whole	The functions of "the Dīwānī Adālat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act).

SCHEDULE,—(continued).
A.—BENGAL REGULATIONS,—continued.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
V of 1799 ...	Estates of Intestates.	Sections IV, V and VI ...	The functions of the Court of "Sadr Dīwānī Adālat" shall be performed by the Judicial Commissioner.
X of 1804 ...	Punishment of State offences by Courts Martial.	So much as has not been repealed.	
XI of 1806 ...	Passage of Troops	Sections II to VI and section VIII, with the exception of such part as authorizes Collectors and their Native Officers, or Magistrates and their Police Officers, to give their official aid in procuring "coolies" for the purpose of facilitating the march of troops or the progress of travellers, and with the exception, in section VIII, of the words and figures "under the rules prescribed by Regulation V, 1804."	The powers of the "Governor General in Council" and of the "Board of Revenue" shall be exercised by the Chief Commissioner.
XVII of 1806...	Redemption and foreclosure of mortgages and conditional sales of land under deeds of bai-bil-wafa, &c.	Sections VII and VIII ...	The functions of the "Zila or City Court of Dīwānī Adālat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act).
XX of 1810 ...	Camp-followers and Bázars.	So much as has not been repealed, except sections I to III, VI, XX, and in section VII the words "as described in the plans."	
XI of 1812 ...	Foreign Immigrants.	So much as has not been repealed.	The powers of the "Nizāmat Adālat" shall be exercised by the Judicial Commissioner.
V of 1817 ...	Hidden treasure..	So much of the Regulation as is not repealed, with the exception of— (a) the first portion of section V down to and including the words "to such treasure." (b) the following words in section VIII, that is to say, "on the application of the vakīl of Government, under instructions from the Board of Revenue, or the Board of Commissioners in the Western Provinces, or the Commissioner in Behar and Benares."	The functions of the "Zila or City Court" shall be performed by the Court of the Deputy Commissioner; those of the "Provincial Court" by that of the Commissioner, and those of the "Sadr Dīwānī Adālat" by that of the Judicial Commissioner.

SCHEDULE,—(*concluded*).
A.—BENGAL REGULATIONS,—*concluded*.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
III of 1818 ...	State Prisoners...	So much as has not been repealed.	
VI of 1819 ...	Ferries ...	So much as has not been repealed, with the exception of, in section VII, the words and figures "in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX, 1816," and in section X the words and figures from and including "in the manner" down to the end of the section.	
VI of 1825 ...	Supply of troops on the march.	The whole ...	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.
XI of 1825 ...	Alluvion and Diluvion.	The whole.	
XX of 1825 ...	Jurisdiction of Courts Martial.	Sections I and II.	
V of 1827 ...	Administration of landed property.	So much as has not been repealed, except the words and figures "and clauses five and six, section XVI, Regulation III, 1803."	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.

B.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year of Act.	Subject.	Extent of operation.
1	2	3
VIII of 1851...	Tolls on Roads and Bridges ...	The whole Act, except section one and the schedule.
XVIII of 1853	Sale of spirits in Cantonments...	The whole Act.
XIII of 1857...	Opium ...	Sections twenty-one, twenty-two, twenty-three, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine.
XL of 1858 ...	Minors ...	The whole Act, except section one, and subject to the amendment made by the Indian Majority Act, 1875.
XV of 1864 ...	Tolls ...	The whole Act.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th December 1875, and is hereby promulgated for general information :—

ACT No. XXI OF 1875.

An Act to authorize the University at Calcutta to grant honorary degrees.

WHEREAS, under Act No. II of 1857, an University was established at Calcutta for the purpose of ascertaining by examination the persons who had acquired proficiency in different branches of Literature, Science and Art, and of rewarding them by academical degrees as evidence of their respective attainments: and by section eight of the same Act the Chancellor, Vice-Chancellor and Fellows for the time being of the said University were empowered to make bye-laws and regulations touching the examination for such degrees and the granting of the same;

And whereas, by section eleven of the same Act, it was provided that the said Chancellor, Vice-Chancellor and Fellows should have power after examination to confer the several degrees therein mentioned;

And whereas, under Act No. XLVII of 1860, the Chancellor, Vice-Chancellor and Fellows for the time being of the said University were empowered to confer such degrees as they should

appoint by bye-laws and regulations made and approved as therein mentioned; and all the provisions of the said Act No. II of 1857 with respect to the degrees therein mentioned, and the examination for those degrees were declared to apply to degrees conferred under the said Act No. XLVII of 1860, and to the examinations for such degrees;

And whereas, under bye-laws and regulations made in exercise of the said powers, the executive government of the said University is now vested in a Syndicate consisting of the Vice-Chancellor and six of the Fellows of the said University; and it is the duty of the said Syndicate (among other things) to grant academical degrees;

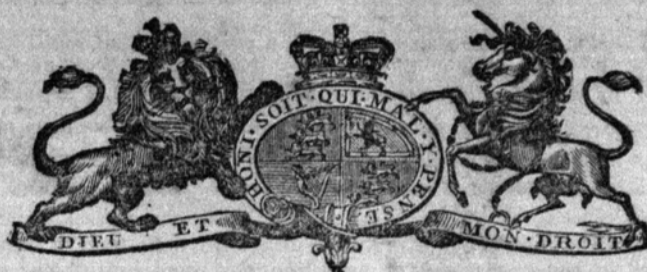
And whereas it is expedient to authorize the said Syndicate to grant such degrees to persons who have not undergone a previous examination; It is hereby enacted as follows :—

1. With the previous consent of the said Chancellor, the said Syndicate for the time being may grant any academical degree to any person without requiring him to undergo any examination for such degree:

Provided that the said Vice-Chancellor and not less than four of the other members of the said Syndicate for the time being certify in writing that in his and their opinion such person is, by reason of eminent position and attainments, a fit and proper person to receive such degree.

WHITLEY STOKES,

Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 17, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th July 1875 :—

We, the undersigned Members of the Select Committee to which the Bill to regulate the transport of Native labourers to British Burma, and their employment therein, was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Office Memorandum from Department of Revenue, Agriculture and Commerce No. 114E, dated 2nd May 1873, and enclosures.	
Ditto	ditto
ditto	ditto
ditto	No. 199E,
dated 18th July 1873.	
Remarks by L. Hernandez, Esq. (no date).	
From Government of Bengal No. 5295E, dated 22nd December 1873, and enclosures.	
"	" 5380E, dated 29th December 1873, and enclosure.
"	" 103J-B, dated 8th January 1874, and enclosures.
Office Memorandum from Department of Revenue, Agriculture and Commerce No. 23E, dated 19th January 1874, and enclosures.	
From Messrs. Gillanders, Arbuthnot and Company No. 3253, dated 18th February 1874, and enclosure.	
From Secretary to Government, North-Western Provinces, No. 1100A, dated 21st April 1874, and enclosures.	
From Secretary to Chief Commissioner, British Burma, No. 521-6, dated 29th April 1874.	
" Chief Secretary to Government, Madras, No. 500, dated 5th May 1874, and enclosures.	
" Chief Commissioner, British Burma, No. 463-105, dated 20th May 1874, and enclosures.	

2. The principal alteration we have made in the Bill is one which depends upon the system of emigration adopted for British Burma, and a system has sprung up since the Bill was introduced into Council. At that time it was not supposed that funds for the promotion of emigration would be forthcoming from any body but the employers who wanted labourers, and the Bill was accordingly framed on the principle that the contract of an emigrant would be made with some individual employer for his whole term of service. Since that time, however, a considerable amount of emigration from peninsular India to British Burma has been effected under a system of contracts entered into by the emigrant directly with the Secretary of State in Council. The funds have been provided by the Government of British Burma, which is repaying itself out of the earnings of the emigrant. It has therefore been thought better to work on this hitherto successful line, and to adapt the provisions of the Bill to the system actually in existence.

3. The portions of the Bill, as now settled by us, which bear most strongly on the change of principle, are contained in sections 35 and 48. But it is obvious that many other parts of the Bill must have been modified by such a change, such as the amount of labour-rate, the conditions under which emigrants are assigned to private employers, the terms of redemption

of contracts, the provision for return-passages, and in particular that much of the protective machinery provided by the original Bill may be safely left to be provided by the Local Government either in the shape of statutory rules or in the shape of executive orders.

4. We now proceed to state in detail the principal alterations we have made in the Bill.

5. As the Bill now contains no clause prohibiting emigration save under the proposed Act, we have struck out the saving of contracts with Native seamen, domestic servants and skilled artisans.

6. We have omitted from the interpretation-clause the definitions of "employer," "vessel," and "master:" we have shortened the definition of "immigrant;" and we have defined "Chief Commissioner."

7. We have provided that the Emigration Agent shall be removeable at the pleasure of the Chief Commissioner, and that the Medical Inspector of Emigrants shall be remunerated as the Government of India may direct.

8. We have relieved the Emigration Agent from the duty of spontaneously instituting inquiries into the treatment of emigrants on the return-voyage. He will, however, receive and enquire into any complaints actually made.

9. We have struck out the clause as to recruiters' badges, which are objected to in many parts of the country as favouring oppression and fraud.

10. We have empowered officers who have countersigned recruiters' licenses to require them to produce the licenses, and either to cancel the signature or impound the license for cancellation by the Emigration Agent.

11. Under the new system to which we have referred it is impossible to specify in the emigrant's contract (*vide* section 13) the district in which he is to serve or the nature of his work, and in Burma it is unnecessary to specify the price of his food. We have therefore struck out the provisions relating to these matters.

12. We have provided for the medical examination of persons accompanying a recruit as his dependents.

13. We have reduced to 8 annas the fee for registering a recruit, and struck out the provision for refunding it in case of his desertion.

On the latter point we are clear enough. There is no reason why if the fee is proper to be paid for the work done, it should be repaid because of the subsequent misbehaviour of one of the parties who required the work. But it may be questioned whether the work should not be done without any fee at all. If the matter were new, we should be of opinion that the district officers might properly be called upon to discharge it gratuitously. But inasmuch as a fee is, under the General Emigration Act, charged for similar services, we have not ventured to omit it altogether from this Bill, though we are of opinion that a smaller one may properly be charged. We are not informed in what manner the fees are disposed of. The point is one on which the local authorities will have full information, and we shall be glad to receive advice whether it is desirable to abolish the fee altogether, or to lower it as now proposed.

14. We think that the Medical Inspector should examine in detail and individually all emigrants and their dependents immediately after their arrival at the depôt, but that any subsequent inspection by him should be of a more general character, and for the purpose mainly of seeing that there is no danger of infectious diseases. We have made provision for the case of emigrants or dependents suffering from such disease. We have struck out the penalty imposed on the Emigration Agent by section 27 of the Bill as introduced; and we have provided a procedure where a dependent is dangerously ill.

15. We have slightly modified the procedure of the Emigration Agent in registering contracts.

16. In section 35 we have declared that when any contract has been ratified by the Emigration Agent, the emigrant shall be deemed to have contracted with him on behalf of the Chief Commissioner to proceed to British Burma, and there to labour according to the terms of his contract in any place and mode which, consistently with such terms and with the provisions of the proposed Act, the Chief Commissioner may from time to time direct.

17. We have struck out the sections relating respectively to suits against the Emigration Agent for breach of contract and to the recovery of certain sums payable by him to emigrants.

18. We have provided that Emigration Agents shall furnish the masters of emigrant vessels with proper lists of the emigrants on board.

19. We have struck out the provision contained in section 40 of the original Bill that the Emigration Agent is to ascertain that the emigrants are in a fit state of health to proceed to Burma. All duties of this kind should be discharged by the Medical Inspector.

20. We have made it clear that the offices of Emigration Agent and of Medical Inspector of Emigrants may be held by the same person.

21. Considering the shortness of the voyage from peninsular India to Burma and the circumstance that the emigrants will be under the care of Government until their arrival, we have struck out the sections (35—44) of the Bill as introduced, relating to emigrant-vessels and the embarkation of emigrants. All that they do can be done by subsidiary rules to be framed by the Local Government.

22. In section 48 we have modified the clause relating to the assignment of immigrants, and have authorized the Chief Commissioner to make rules regulating the terms on which immigrants shall be allowed to labour on their own account. We have provided (in section 49) that in assigning immigrants to particular employers, the Immigration Agent shall, so far as practicable, take care that they are not separated from their dependents.

23. For reasons similar to those stated in paragraph 21 of this report, we have struck out the clauses (51—65) of the Bill as introduced, relating to the transit of immigrants to the place of labour. The matter will be more fitly provided for by rules to be made by the Chief Commissioner.

24. We think that under the changed aspect of the Bill no labour-rate will be wanted. The expenses will be recovered from the employers under the terms of the assignments. If they are not recoverable from any employer, we have empowered the Chief Commissioner to declare the assignment of immigrants to such employer to be void. In such case their labour will again be at the disposal of the Chief Commissioner.

25. We have struck out the clauses relating to the books to be kept and the reports to be made by Inspectors of Immigrants. These matters can, if necessary, be provided for by subsidiary rules or by simple executive orders.

26. We have also omitted the two sections (74, 75) of the Bill as introduced, which relate to the fixing of the immigrant's daily tasks and to the revision of the schedule of tasks. They are inconsistent with the conditions under which emigrants are now and will be employed in British Burma.

27. By section 60 where an Inspector finds an immigrant to be permanently unfitted for labour, he will report the case to the Local Government, which will then either provide for the employment and support of the immigrant and his dependents or send them back to the place at which they were registered.

28. Fines for breach of rules as to house-accommodation will, where the persons fined are agents and fail to pay, be charged on the employers' lands and be recoverable as if they were land-revenue.

29. We have struck out, as unnecessary in Burma, the clauses relating to unhealthy estates (sections 83 and 84 of the original Bill).

30. We have struck out the clauses (sections 85, 89 of the Bill as introduced) empowering the employer of an immigrant convicted of absence from labour or desertion to assign him to another employer.

31. We think it inexpedient to provide that the punishment for desertion shall in all cases be rigorous.

32. We have simplified the procedure in cases of complaints against employers. When any such complaint is frivolous and vexatious, we have provided (in section 77) a small penalty for the complainant. Compensation awarded where wages are in arrear for more than two months, will be paid to the immigrant.

33. By sections 83 and 84 we have completely altered the redemption clauses contained in section 102 of the original Bill. The contract being made with Government, who will also in many cases be the actual employer of labour, it is intended to make it redeemable, as the present practice is, on repayment by the immigrant of the expenses properly chargeable to him according to accounts kept by the Immigration Agent. When the immigrant has been assigned to a private employer, the proper compensation to that employer for the loss of his labour will be best ascertained by the special conditions of the assignment, or by rules whenever the Local Government can find its way to some general principle applicable to all cases.

34. We have struck out the clause (section 104 of original Bill) providing for a return-passage for immigrants whose contracts have been completed. Such a provision is not only not required, but would be inexpedient in the case of British Burma—at all events under the contemplated system.

35. We have struck out, as useless, the section empowering the Governor General in Council to make subsidiary rules, and we think it unnecessary to require the sanction of the Government of India to rules made by the Chief Commissioner under the proposed Act.

36. We have expressly empowered the Chief Commissioner to make rules to regulate the notice to be given and forms to be observed on the termination of assignments of immigrants and the terms on which contracts and assignments of service may be redeemed. We have provided a penalty for wilfully contravening any rule for the breach whereof no penalty is specially provided.

37. We have added four clauses (89, 90, 91, 92) to the Bill: the *first* providing for the renewal of instruments which have been lost or destroyed; the *second* declaring that copies made under the proposed Act shall be evidence of the contracts to which they respectively relate; the *third* providing for the recovery of money due under the Act from employers of immigrants; and the *fourth* supplying a technical defect in the contracts for service in British Burma under Government which have heretofore been entered into by emigrants from peninsular India.

38. The schedule giving a form of a pass permitting immigrants to proceed to their labour-district has been struck out in consequence of the omission of the section (51) which refers to it.

39. We have made, besides these substantial changes, several transpositions and verbal amendments.

40. We think that the Bill has been so altered as to require republication: we accordingly recommend that it be republished, as now amended, in the *Gazette of India*, the *Calcutta Gazette*, the *Port Saint George Gazette*, and the *British Burma Gazette*, and that its further consideration should be postponed for the present.

SIMLA,
The 12th July 1875.

A. HOBHOUSE.
A. EDEN.
A. J. ARBUTHNOT.
A. CLARKE.

No. II.

BRITISH BURMA LABOUR LAW, 1875.

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A Bill to regulate the transport of Native labourers to British Burma, and their employment therein.

Whereas it is expedient to regulate the transport of Native labourers to British Burma, and their employment therein under contracts of service; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called "The British Burma Labour Law, 1875 :"
Short title.
 It extends to the whole of British India ;
Local extent.
 And it shall come into force at once.
Commencement.
2. Madras Act No. V of 1866 (*to regulate the manner of engaging and contracting with Native inhabitants within any of the Districts subject to the Government of Fort St. George, for labour to be performed in any part of India beyond the territorial limits of the Presidency of Madras*) is repealed as to engagements hereafter made in the Presidency of Madras for labour to be performed in British Burma and as to the emigration of Natives of India from such Presidency to British Burma.
Repeal of Madras Act No. V of 1866, so far as it affects British Burma.
3. In this Act, unless there be something repugnant in the subject or context—
Interpretation-clause.
 "Chief Commissioner" means the Chief Commissioner of British Burma.
 "Chief Commissioner."
 "Emigrants" and "emigration" respectively mean emigrants and emigration under this Act.
 "Emigrant."
 "Magistrate" means a Magistrate of a district or of a division of a district, or any Magistrate deputed by the Magistrate of the district for the control of emigration or labourers, or any Magistrate of Police for a Presidency Town.
 "Magistrate."
 "Immigrant" means any emigrant who has gone to British Burma in accordance with a contract made under the provisions of this Act.
 "Immigrant."

PART II.

OF EMIGRATION.

Emigration Agents, Medical Inspectors and Depôts.

4. At every port of embarkation the Chief Commissioner shall, with the consent of the Local Government, appoint an Emigration Agent, to whom such remuneration shall be assigned as the Government of India may from time to time direct. Such Agent shall be removeable at the pleasure of the Chief Commissioner.
Appointment of Emigration Agent.
 At every such port the Local Government shall appoint a competent person to be Medical Inspector of Emigrants, and such remuneration shall be assigned to him as the Governor General in Council may from time to time direct.
Appointment of Medical Inspector.

5. Every such Emigration Agent and Medical Inspector shall be a public servant within the meaning of the Indian Penal Code.
Emigration Agent and Medical Inspector to be deemed public servants.

6. In addition to the special duties hereinafter assigned to him, every such Emigration Agent shall—
Duties of Agent.

- (a) protect and aid with his advice all emigrants ;
- (b) cause, so far as he can, all provisions of this Act to be complied with ;
- (c) inspect on arrival all vessels bringing return emigrants to the port at which he is Agent ;
- (d) receive and enquire into the complaints (if any) of the treatment of such emigrants during the voyage and (if necessary) report thereon to the Local Government ;
- (e) aid and advise such returned emigrants when requested by them to do so.

7. Every Emigration Agent, and all persons in charge of, or employed in, any depôt or in any vessel licensed to carry emigrants as hereinafter provided, shall give the Medical Inspector every facility for making such inspections, examinations and surveys as may be necessary or proper under this Act, and shall afford him all such information as may be reasonably required by him.
Emigration Agent, &c., to give information to Medical Inspector.

8. At each port of embarkation the Emigration Agent shall establish a suitable depôt for emigrants.
Establishment of depôts for emigrants.

Recruiters.

9. Each Emigration Agent shall license as many fit persons as he thinks necessary to be recruiters of labourers for British Burma.
Licensing of recruiters.

Every recruiter shall be licensed to obtain labourers from one or more districts to be named in the license.

10. The license granted to a recruiter, under section nine, may be in the form set forth in Schedule A hereto annexed.
Form of license.

No license shall be in force for a longer period than one year, and in case of misconduct on the part of the recruiter the Emigration Agent may cancel his license before the expiration of the period for which it was granted.
Period for which it shall remain in force.

11. A recruiter shall not be deemed to have obtained authority in any place other than a Presidency town to engage or attempt to engage a Native of India to become an emigrant until his license has been countersigned by the Magistrate of the district or of the division of the district, or to have obtained such authority in any Presidency town until his license has been countersigned by the Commissioner or Deputy Commissioner of Police.
Countersignature of Magistrate to recruiter's license.

12. No such officer shall countersign a recruit-
License not to be countersigned until recruiter's fitness is ascertained. er's license unless and until he has satisfied himself, by such enquiry as he thinks fit, that the licensee is not by character or from any other cause unfitted to be a recruiter under this Act.

If any officer who has countersigned a license afterwards finds reason to think that the licensee is by character or other cause unfitted to be a recruiter under this Act, he may require the licensee to produce the license and may cancel his signature; or he may, if he thinks fit, impound the license and send it to the Emigration Agent for cancellation.

Every such officer refusing to countersign a recruiter's license, or cancelling his signature, shall without delay report his refusal or cancellation and the grounds of it to the Emigration Agent to whose authority the recruiter is amenable.

Contracts and Registration and Journey to Depôts.

13. Any person desiring to emigrate under this Act may enter into a contract with a recruiter to proceed to British Burma and there serve for a fixed period of not more than three years from the date of his arrival at the port of debarkation.

Every such contract shall be in writing and shall specify—

- (a) The term of service:
- (b) The number of days and hours of work:
- (c) The monthly wages in money:
- (d) The persons (if any) intending to accompany the recruit as his dependents.

The monthly rate of wages shall in no case be less than seven rupees for an adult male labourer.

No recruit shall be required to work more than six days in one week, or more than six consecutive hours, or more than nine hours a day.

No deduction shall be made from the wages of a recruit on account of the rest for one day in each week. The obligation to provide on holidays for the care of animals, and the necessities of daily life, shall not be considered as work.

No emigrant shall be bound by the provisions of this Act unless he has entered into a contract in accordance with this section.

14. Every recruit who has entered into such a contract as aforesaid shall be brought by the recruiter before the Civil Surgeon of the district or such other medical officer as the Local Government appoints in that behalf or, in default of such appointment, before such medical officer as the Magistrate directs.

The medical officer shall thereupon examine the recruit, and shall either reject him or shall certify that he is in a fit state of health and able in point of physical condition to proceed to British Burma and to work there.

If it is intended that any persons shall accompany the recruit as his dependents, the recruiter shall also bring them before the medical officer for the purpose of obtaining certificates that they are in a fit state of health and able in point of physical condition to perform the journey to British Burma; and the medical officer shall

examine the dependents and shall give or refuse certificates according to his opinion as to their fitness and ability.

Certificates shall be in the form set forth in Schedule B hereto annexed, and the recruiter shall pay to the medical officer such fee for each person examined as the Local Government may from time to time prescribe.

15. Every certified recruit and every accompanying dependent shall appear with the recruiter before a Magistrate in the district or Presidency town within which the contract with the recruit was entered into.

16. The Magistrate shall thereupon inspect the instrument of contract and the medical certificate of the recruit, and shall, apart from the recruiter, examine the recruit with reference to his contract, and if it appears that the recruit understands the nature of the contract he has entered into as regards the particulars specified in section thirteen, and that he is willing to fulfil the same, the Magistrate shall register—

(a) the name, the father's name, and the age of such recruit:

(b) the name of the village or place in which he resides:

(c) the port of embarkation to which it is intended that he shall proceed:

(d) the several particulars specified in the instrument of contract made under section thirteen.

The recruit shall thereupon be deemed an emigrant under this Act.

If the Magistrate thinks that the recruit does not understand the nature of his contract, or has been induced to enter into it by fraud or misrepresentation, he shall refuse to register him.

17. On the appearance of any person claiming to be dependent on an emigrant, the Magistrate, after inspecting the medical certificate, shall, apart from the recruiter, examine such person if able to give intelligent answers to questions as to his dependence upon the emigrant whom he is about to accompany, and as to his willingness to accompany such emigrant.

If the Magistrate is satisfied as to the said dependence and willingness, he shall register the dependent as a dependent on such emigrant.

But if the Magistrate sees reason to doubt such dependence or willingness, he may refuse to register the alleged dependent.

18. The Magistrate shall furnish to every emigrant an authenticated copy on substantial paper of the matters registered under sections sixteen and seventeen.

Such copy is hereinafter called "the emigrant's instrument" or the "immigrant's instrument."

Another authenticated copy of the matters so registered, together with the original certificate of the medical officer, shall be forthwith forwarded by the Magistrate to the Emigration Agent at the port of embarkation to which the emigrant is about to proceed.

For each registration of a recruit under this Act the recruiter shall pay to the officer making it a fee of eight annas.

Registration fee.

19. When the registration under this Act is completed, the emigrant and his dependents may be moved to the depôt at their port of embarkation.

20. The recruiter himself, or a competent person appointed by him with the approval of the Magistrate by whom such emigrants have been registered, shall accompany and take care of all emigrants and their dependents while journeying to the depôt.

The Magistrate shall give to every person so appointed a certificate under his signature, stating that he has been appointed to accompany and take care of certain emigrants during their journey to the depôt.

Every recruiter by whom any emigrant or dependent is forwarded to a depôt shall, throughout the journey, provide him with proper and sufficient food and lodging.

21. Whoever, being a duly licensed recruiter, removes for the purpose of emigration any recruit before the completion of such registration as aforesaid;

and whoever by means of intoxication, violence, fraud, false pretences or misrepresentation induces any Native of India to enter into a contract for labour to be performed in British Burma, or to proceed to or towards any seaport for the purpose of proceeding to British Burma without having entered into any contract;

and whoever wilfully neglects to supply any emigrant or dependent under his care with proper and sufficient food and lodging, or otherwise ill-treats such emigrant or dependent on his journey to the depôt;

and whoever forwards, sends or conveys any such emigrant or dependent with intent to contravene the provisions of this Act;

shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Procedure on arrival of Emigrants at Depôt.

22. The Emigration Agent shall, within twenty-four hours after the arrival at the depôt of any emigrant, give to the Medical Inspector notice in writing of such arrival.

23. The copy of the matters so registered and the medical certificate of every emigrant forwarded to the Emigration Agent as provided by section eighteen, shall be shown to the Medical Inspector at the port of embarkation, and all emigrants and their dependents shall be examined by the Medical Inspector immediately after their arrival at the depôt.

24. The Medical Inspector of emigrants shall also, at least once in every week, inspect the emigrants in the depôt, and examine into the state of the

depôt and the manner in which the emigrants are therein lodged, fed, clothed and otherwise provided for and attended to.

25. It shall be the special duty of the Medical Inspector to take care that no emigrant or dependent is suffering from any disease calculated to be dangerous to his neighbours, and to isolate or to exclude from the depôt and from embarkation persons who are so suffering.

Any person so suffering may, if the Medical Inspector thinks fit, be removed to a proper hospital for treatment.

26. If the Medical Inspector has reason to think that any emigrant is in such a state of health that his journey to British Burma, or detention in the depôt, would be dangerous to himself or others, or that he is unfit for labour in British Burma, he shall so certify to the Emigration Agent; and in case any emigrant is in such a state of health as aforesaid the Emigration Agent shall pay to such emigrant such sum as is necessary to enable him to return to the place at which he was registered:

And any emigrant who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake such journey shall be entitled to be fed, lodged and attended to at the port of embarkation at the expense of the Emigration Agent, until he is reported by the Medical Inspector fit to undertake such journey.

27. If a dependent has accompanied such emigrant, the Emigration Agent shall pay such sum as is necessary to enable him to return to the place at which he was registered, as well as to feed and lodge him during the detention (if any) of the emigrant in the depôt.

28. If the Medical Inspector sees reason to think that any dependent is in such a state of health that his journey to British Burma or his detention in the depôt would be dangerous to himself or others, he shall so certify to the Emigration Agent; and thereupon the emigrant to whom such dependent is attached shall be entitled, if he so wishes, to return as if he himself had been certified to be unfit to proceed under section twenty-six.

If the emigrant still desires to proceed, then the dependent shall be kept and be returned to the place at which he was registered as if he were an emigrant falling under section twenty-six.

29. If the Medical Inspector sees no reason to certify in the manner provided in section twenty-six or section twenty-eight of any emigrant or dependent, he shall countersign the copy of the emigrant's instrument which is in the possession of the Emigration Agent.

30. If, upon the arrival of any emigrant or dependent at the depôt, it appear that he has suffered any ill-treatment, or that the recruiter has failed to provide him with proper and sufficient food and

lodging during the journey to the depôt, the Local Government may order the Emigration Agent to pay him a reasonable sum by way of compensation.

31. When the copy of an emigrant's instrument has been countersigned by the Medical Inspector under section twenty-nine, the Emigration Agent shall ratify the contract into which the emigrant has entered, by countersigning the emigrant's instrument and the authenticated copy thereof forwarded to the Emigration Agent under section eighteen.

32. A copy of every such instrument shall be entered in a register to be kept by the Emigration Agent for the purpose, and a copy of such entry authenticated by himself shall be forwarded by him to the Immigration Agent at the port of debarkation.

33. Any emigrant who, without reasonable cause, refuses to produce his instrument when required by the Emigration Agent, or in any respect to comply with the terms of his contract, shall be punished with a fine equal in amount to the cost incurred in engaging, registering and conveying him to the depôt, and in default of payment of such fine with imprisonment which may extend to two months, and such emigrant may forthwith be discharged from the depôt.

A certificate signed by the Emigration Agent that reasonable cause for refusing to produce the emigrant's instrument has not been shown, shall be admissible as *prima facie* evidence in any proceeding taken under this section.

A certificate signed by the Emigration Agent stating the cost incurred in engaging, registering and conveying the emigrant to the depôt shall be conclusive evidence of the amount of such cost.

Every fine levied under the provisions of this section shall be paid to the Emigration Agent.

34. If within thirty days after the arrival at a depôt of any emigrant, the Emigration Agent does not offer to ratify such contract in manner aforesaid,

or if the Emigration Agent, without the consent of the Local Government, refuses to be bound by the contract made with the emigrant,

the Local Government may order the Emigration Agent to pay to such emigrant such sum of money as is necessary to enable him, together with the dependents (if any) upon him, to return to the place where he was registered, and in such case the emigrant shall be released from his contract.

35. When the contract has been ratified by the Emigration Agent, the emigrant shall be deemed to have contracted with the Secretary of State for India in Council to proceed to British Burma, and there to labour according to the terms of his contract in any place and mode which, consistently with such terms and with the provisions of this Act, the Chief Commissioner or any officer appointed by him in that behalf may from time to time direct.

Emigrant vessels and embarkation of Emigrants.

36. When the contract of any emigrant has been duly ratified as aforesaid, he may be forwarded to British Burma, together with his registered dependents if any.

37. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in such vessel has been obtained from the Local Government of the port of embarkation.

The granting or withholding of any such license shall be in the discretion of the Local Government.

38. Every person obtaining a license under the last preceding section shall be bound to comply with the provisions of this Act and the rules made hereunder, so far as such provisions and rules relate to him.

And any such person failing to comply with any of such provisions or rules shall be liable to a fine not exceeding one thousand rupees.

39. Before leaving the port of embarkation, the Emigration Agent shall furnish the master of any vessel licensed to carry emigrants with a list specifying as accurately as may be the names, ages and occupations, and the names of the fathers of the emigrants on board,

and the master shall obtain from the Emigration Agent and the Medical Inspector of Emigrants certificates under their respective hands, to the effect that they have in respect of the emigrants proceeding in such vessel done all that is hereinbefore required to be done on the part of such Emigration Agent and Medical Inspector respectively, and that, to the best of their knowledge, all the directions herein contained for ensuring the health, comfort and safety of the emigrants have been duly complied with, as well as all rules for the time being in force under section eighty-six.

40. If any emigrant without sufficient cause refuses or neglects to embark when called upon by the Emigration Agent so to do,

it shall not be lawful to compel such emigrant or his dependents (if any) to embark, or to put him or them on boardship against his will, or to detain him or them against his or their will at the depôt or elsewhere; but nothing in this section shall diminish or affect the civil or criminal liabilities which such emigrant incurs by reason or in respect of his refusal or neglect aforesaid.

Explanation.—The arbitrary refusal of any such dependent to embark shall not be deemed 'sufficient cause' within the meaning of this section.

Every case in which an emigrant is charged under this section before a Magistrate of Police in a Presidency town shall be heard and determined in a summary manner; and every such emigrant shall on conviction, whether by such Police Magistrate or any other Magistrate, be punished in the manner provided in section 492 of the Indian Penal Code for the punishment of offences under that section.

41. The Emigration Agent shall, before the embarkation of any emigrant, ascertain that he has in his possession the instrument mentioned in section eighteen.

Procedure as to emigrant's instrument.

If it appear to the satisfaction of the Emigration Agent that any emigrant has lost such copy, the Agent may furnish him with another copy of such instrument to be made from the copy forwarded by the Magistrate under section eighteen, and shall thereupon allow such emigrant to embark.

42. The offices of Emigration Agent and of Medical Inspector of Emigrants may be held by the same person; but in such case he shall perform only such of the duties hereinbefore prescribed for the two offices as are necessary for carrying out in substance the provisions of this Part.

Provision for offices of Emigration Agent and Medical Inspector being held by the same person.

PART III.

DEBARKATION AND TRANSIT TO DISTRICTS OF LABOUR.

Officers and Depôts at ports of debarkation.

43. The Chief Commissioner shall, at each port of debarkation, appoint an Immigration Agent and a Medical Inspector of Immigrants, and shall, by notification in the *British Burma Gazette*, define the local limits within which every such Agent and Inspector shall exercise the powers conferred upon him by this Act.

Immigration Agent and Medical Inspector of Immigrants.

44. At every such port the Immigration Agent shall establish a suitable depôt for immigrants under this Act, and provide them with proper and sufficient lodging, food, clothing and medical attendance in such depôt until they are despatched to the place of labour.

Depôt at port of debarkation.

Such depôt shall be at all times open to the inspection of the Medical Inspector of Immigrants.

Procedure on arrival of Vessel carrying Immigrants.

45. Upon the arrival at any port of debarkation of any vessel carrying immigrants, the Master of such vessel shall at once report his arrival to the Immigration Agent, and no immigrant on board shall be allowed to land without the permission of such Agent first obtained.

Master to report arrival of vessel carrying immigrants.

Any Master of a vessel who allows any immigrant to land without such permission may be punished by a fine which may extend to fifty rupees for each person so landed.

46. Upon receipt of the report of arrival of any vessel carrying immigrants, the Immigration Agent or such other officer as he deposes in this behalf shall forthwith go on board such vessel and satisfy himself that the vessel has on board its proper list of immigrants, and shall compare the immigrants on board with the list.

Examination of immigrants by Immigration Agent.

The Medical Inspector shall also, as soon as may be, examine the immigrants, in order to ascertain whether any of them are suffering from contagious or infectious disease.

Examination by Medical Inspector.

Any immigrant suffering under any such disease may, if the Medical Inspector thinks fit, be removed to a proper hospital for treatment.

47. The Immigration Agent may if he thinks fit, and shall on complaint made by any of the immigrants, inquire into the treatment of the immigrants during the voyage, and submit a report thereon to the Chief Commissioner.

Enquiry into treatment of immigrants on the voyage.

Assignment of Immigrants.

48. The Chief Commissioner may from time to time make rules consistent with this Act regulating—

- applications to the Immigration Agent by persons desiring to employ immigrants,
- the terms on which the Agent shall assign immigrants to such persons respectively,
- the terms on which immigrants shall be allowed to labour on their own account.

All such rules shall be published in the *British Burma Gazette*.

49. In assigning immigrants to particular employers, the Immigration Agent shall, so far as may be practicable, take care that they are not separated from their dependents.

Immigrants not to be separated from dependents.

50. The assignment may be made in such form as the Chief Commissioner shall by rule direct, and the Immigration Agent shall send each employer a copy authenticated by himself of the entry forwarded to him by the Emigration Agent under section thirty-two.

Form of assignment.

Such copy is hereinafter called "the employer's instrument."

51. The Immigration Agent shall endorse on the instrument of every immigrant assigned under section fifty an entry showing—

Entry of assignment in immigrant's instrument.

- the name and residence of his employer, and
- the period for which the immigrant is so assigned.

PART IV.

THE LABOUR DISTRICTS AND RELATIONS OF EMPLOYER AND IMMIGRANT.

Inspectors of Immigrants.

52. The Chief Commissioner may appoint so many Inspectors and Assistant Inspectors of Immigrants as he thinks proper, and may from time to time define, by notification in the *British Burma Gazette*, the local limits within which each such Inspector and Assistant Inspector shall exercise and perform the powers and duties conferred and imposed on him by this Act.

The Chief Commissioner may confer all or any of the powers of a Magistrate on such Inspectors and Assistant Inspectors; and they shall be public

Powers of Inspectors.

servants within the meaning of the Indian Penal Code.

53. Every employer of immigrants under this Act shall, on such days and in such mode as may from time to time be prescribed by rule; under section eighty-seven, make out in writing, and deliver to the Inspector of Immigrants, a return of the number of immigrants so employed by him, and a return of the sickness and mortality among them during the preceding six months.

54. Any employer refusing, or wilfully omitting, to send in any such return as mentioned in the last preceding section, or knowingly sending in an incorrect return, shall, on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees;

and a certificate under the hand of the Inspector to whom such return ought to have been sent, stating that such return has not been received, or is incorrect as aforesaid, shall be received as *prima facie* evidence of the truth of such statement.

55. Every Inspector of Immigrants shall, so often as may be directed by the Chief Commissioner, visit all lands and houses within the limits of his authority on or in which any immigrant is employed, and inspect every building or place in any way used by or for any such immigrants, or in or on which any such immigrants are employed and investigate the condition of such immigrants; and for such purpose the Inspector may require that any immigrant shall be produced before him with all papers relating to his contract under this Act, and may make such enquiries as may to him seem proper.

56. Any Magistrate exercising jurisdiction in the district, and any person authorized by him in writing in this behalf may at any time—

(a) enter and inspect any building or place wholly or partially used by or for immigrants,

(b) require that any immigrant be brought before him, and

(c) make any enquiries which he thinks proper touching the condition or treatment of any immigrant.

57. Any employer, and any person acting under his orders or on his behalf, who wilfully obstructs or impedes any visit, entry, inspection or enquiry under section fifty-five or section fifty-six, shall be liable for every such offence to a fine which may extend to five hundred rupees.

Suspension or Cancellation of Assignment.

58. The Inspector of Immigrants, within the local limits of whose authority any immigrant is employed, may suspend, for such period as he thinks fit, the assignment of such immigrant, or any particular term of his contract under this Act, if he be in the judgment of the Inspector temporarily incapacitated

for the performance thereof by reason of sickness, or other sufficient cause:

Provided that every such immigrant shall, during such incapacity, receive from his employer such subsistence money not exceeding his wages as the Inspector thinks sufficient.

59. If any immigrant is compelled to perform any species of labour for which he is at the time manifestly unfit, or which is at variance with the terms of his assignment, the person so compelling him shall, on conviction by a Magistrate, be liable to a fine not exceeding one hundred rupees.

60. If, in the opinion of the Inspector of Immigrants, any immigrant is permanently incapacitated for the performance of his contract, according to the terms of his assignment, the Inspector shall certify to that effect in writing, and deliver such certificate to the employer of such immigrant, or to his manager or agent, and from the date of such delivery the assignment of such immigrant shall be wholly vacated.

The Inspector shall report every such case to the Local Government, and the Local Government shall either provide for the employment and support of the immigrant and his dependents, or return them to the place at which they were registered.

Provisions for the health and comfort of Immigrants.

61. Every employer of immigrants shall be bound to provide for them sufficient and proper house accommodation, water-supply and sanitary arrangements, and such food as the Chief Commissioner may from time to time direct.

62. Any Inspector or Assistant Inspector who is himself a Magistrate, may institute within the local limits of his jurisdiction, a local enquiry whether any employer has provided for his immigrants sufficient and proper house-accommodation, water-supply, sanitary arrangements or food.

At the instance of any Inspector or Assistant Inspector, a similar enquiry may be made by any Magistrate.

Every such enquiry shall be dealt with and conducted as an enquiry by a Magistrate under the Code of Criminal Procedure.

63. Any person disobeying rules passed under section eighty-seven, clause (e), shall be liable to a fine not exceeding five hundred rupees, and the convicting Magistrate may order compliance with such rules by the person bound to obey the same within a reasonable time to be fixed in the order.

If such person wilfully omits to comply with such order, he shall be liable to a fine not exceeding fifty rupees a day for every day that such omission continues.

If such person is an agent and fails to pay the fine, such fine shall be charged on the employer's

land and shall be recoverable in the manner provided by section ninety-one.

64. Wherever such hospital accommodation or medical charge, as required by rules made under section eighty-seven, or medicines of such quality and kind, and according to such scale as aforesaid, have not been provided, the employer or other person wilfully neglecting to provide the same shall be liable to a fine not exceeding one hundred rupees for every week during which any such default continues.

Complaints against Immigrants.

Penalty on immigrant absenting himself without sufficient cause,

65. Any immigrant who voluntarily and without reasonable cause absents himself from his employer's service, or without reasonable cause neglects or refuses to labour, or neglecting to labour, terms of his contract,

may, on conviction by a Magistrate, be sentenced to lose all claim to wages or allowances during such absence, neglect or refusal, and also to forfeit to his employer a sum not exceeding eight annas for each day during which such absence, neglect or refusal has continued; and in case such absence, neglect or refusal has exceeded seven days, or in case such immigrant has been already convicted of the same offence, within a period of three months, he may be further sentenced at the request of the employer to imprisonment for fourteen days.

Explanation.—Ill-treatment of such immigrant by his employer, or the neglect of the employer to fulfil any condition of the contract, may be 'reasonable cause' within the meaning of this section.

66. If any immigrant deserts or attempts to desert from his employer's service, such employer or any other person acting in his behalf may, without warrant, and without the assistance of any police officer (who, nevertheless, shall be bound to give such assistance if called upon to do so), apprehend such immigrant wherever he may be found:

Provided that if he be found in the service of another employer, he shall not be arrested without a warrant.

The employer or other person apprehending an immigrant under this section shall, within a reasonable time after such apprehension, give him in charge at the nearest police station, and there enter the charge upon which he has been apprehended.

67. Any immigrant so given in charge shall be conveyed, without delay, to the nearest Magistrate having jurisdiction.

If the place from which such immigrant is charged with having deserted be within the jurisdiction of such Magistrate, he shall himself adjudicate upon the charge; but if not, he shall forward the said immigrant, under custody, to the Magistrate within the local limits of whose jurisdiction such place is situate, who shall adjudicate upon such charge.

68. Every immigrant deserting from his employer's service shall be liable to imprisonment which may extend to one month.

Every immigrant who after having been so convicted again deserts from his employer's service, shall be liable to imprisonment which may extend to two months.

Every immigrant who after having been twice so convicted again deserts from his employer's service, shall be liable to imprisonment which may extend to three months.

69. Whenever any immigrant has actually suffered imprisonment amounting in the whole to six months for desertion or unlawful absence from his employer's service, the Inspector shall, if the employer so desire, cancel the assignment of such immigrant by endorsement on the immigrant's instrument, or, if that is not forthcoming, by any writing under his hand.

70. All the provisions of this Act regarding desertion or unlawful absence of immigrants shall apply to immigrants who desert while in transit to the district in which they are assigned to labour;

and such immigrants may be tried either in such district or in the district in which they may be apprehended.

71. Whoever knowingly and wilfully entices away, harbours, or employs, or attempts to entice from his employment any immigrant before he has been lawfully released from his contract, shall be liable to a fine not exceeding five hundred rupees, and the convicting Magistrate may award to the employer of such immigrant the whole or any portion of such fine.

72. The employer, or any person authorized to act for the employer, of any immigrant sentenced to imprisonment for any offence under this Act, may apply to the Magistrate, at any time before the expiry of such sentence, that such immigrant be made over to him for the purpose of completing his term of labour;

and the Magistrate may, if he see good cause, make over such immigrant to his employer, and in that case the Magistrate shall cancel the remainder of the sentence passed on the immigrant, and shall endorse on his instrument, or, if such instrument is not forthcoming, shall give him, a memorandum of such cancellation.

73. When any immigrant has been sentenced to imprisonment for any offence under this Act, the Magistrate shall (subject to the provisions of section sixty-nine) make over such immigrant on the termination of his imprisonment to any person appointed on the part of his employer to receive charge of him;

and no conviction under this Act, or imprisonment under such conviction, shall, save as aforesaid, operate as a release to any immigrant from the terms of his contract;

The period of imprisonment shall in no case be prolonged by reason of there being no person present on the part of the employer to take charge of the immigrant at the expiry of his sentence; but such immigrant shall, in that case, be sent to the place, or principal place of business of such employer, and the expense of so sending him shall be levied from the employer in the manner provided by section ninety-one.

74. The duration of every unlawful absence from labour, of which any immigrant may be convicted, and every period of imprisonment for any offence under this Act, shall, on the request of the employer, be endorsed by the convicting Magistrate on the employer's instrument,

and no such period of imprisonment or unlawful absence so endorsed shall be reckoned as part of the term for which the immigrant is bound to serve, but such term shall extend to such further period as is equivalent to the aggregate amount of the imprisonment and unlawful absence so endorsed.

Complaints against employers.

75. If any immigrant states to his employer, or to any person acting for such employer, that he desires to make a complaint to the Inspector of Immigrants of personal ill-usage or breach of any provision of this Act on the part of such employer or other person, the person to whom such statement has been made shall, within forty-eight hours, send notice thereof in writing to the Inspector, and in default of so doing, such person shall be liable to a fine not exceeding one hundred rupees.

76. Whenever any Inspector of Immigrants receives such notice in writing as aforesaid, or has other reasonable grounds for believing that any immigrant within the local limits of his jurisdiction has been injured by personal ill-usage or breach of any provision of this Act as aforesaid, he shall, so soon as conveniently may be, make full enquiry into the matter complained of.

77. If, upon such enquiry, the Inspector finds that the complaint is untrue or frivolous or vexatious, he shall enter in his book the particulars of such complaint, and a short statement of the grounds of his finding respecting it, and shall dismiss the complaint;

and in such case shall endorse on the employer's instrument the number of days during which the complainant has been absent from work in consequence of such enquiry,

and such number of days shall be added to the period for which the complainant had contracted to serve,

and every such endorsement shall be conclusive evidence that such immigrant has absented himself from his labour without sufficient cause during the number of days so endorsed.

When the complaint is frivolous and vexatious, the complainant shall be liable on conviction before a Magistrate to a fine not exceeding five rupees.

78. If, upon enquiry as aforesaid, the Inspector is of opinion that the complaint is well founded, he shall, if a Magistrate, dispose of the case in due course of law.

If the Inspector is not a Magistrate, he shall without delay send the complainant and his witnesses to the nearest Magistrate, and such Magistrate shall thereupon dispose of the case in due course of law.

79. If, upon the complaint of any immigrant it is proved to the satisfaction of the Magistrate that the wages of such immigrant are in arrear to an amount exceeding the total of his wages for two months, such Magistrate may award to the complainant the amount which appears to be then due to him; and also, by way of compensation, such further sum, not exceeding that amount, as appears to the Magistrate to be just; and in case of default, the entire sum shall be recovered in manner provided by section ninety-one, and shall be paid to the complainant.

80. If any employer, or any person placed in authority over any immigrant by such employer, is convicted of any offence causing injury to the person or property of such immigrant and triable under the Code of Criminal Procedure by the Court of Session;

or if any such employer, or other person as aforesaid, is twice convicted of any such offence against such immigrant triable under the said Code by a Magistrate;

or if it be proved before a Magistrate that the wages of such immigrant are in arrear to an amount exceeding the total of such wages for three months;

or if a Magistrate, on the report of the Inspector and after due enquiry in the presence of the parties, is satisfied that any immigrant has been subjected to ill-usage by such employer or any other person placed in authority over the immigrant by such employer, or has been compelled by such employer or person to perform any labour when known to such employer or person to be unfit for it,

the Magistrate may, if he think fit, on the application of the immigrant, in each of such cases cancel the assignment of such immigrant, and award to him, in addition to the wages (if any) due for service performed, compensation not exceeding thirty rupees.

Every such cancelment shall be certified by the Magistrate on the back of the immigrant's instrument, or if such instrument be not forthcoming, by writing under the Magistrate's hand delivered to the immigrant.

The compensation may be recovered in manner provided by section ninety-one.

Determination of Assignments and Contracts.

81. Every immigrant assigned under this Act, on completing the term of his assignment or on the avoidance of the same may appear before the Inspector or Immigration Agent, who shall, on being satisfied that

the term has come to an end, make an entry to that effect on the immigrant's instrument.

82. Any employer or agent forcibly or fraudulently detaining an immigrant after the completion or avoidance of his assignment, or wilfully failing to give notice of such completion in accordance with rules prescribed under section eighty-seven, shall be liable to fine not exceeding five hundred rupees.

83. Any immigrant who is not assigned under this Act may redeem the unexpired term of his contract of service by paying to the Immigration Agent such sum of money as will repay the expense incurred by Government under this Act and chargeable to such immigrant after taking into account any repayment already made by him; and the certificate of the Immigration Agent shall be conclusive evidence of the sum so chargeable.

84. Any immigrant who is assigned under this Act, and who is desirous to redeem the unexpired term of his contract, may demand to be taken or allowed to go before the Inspector of Immigrants within the local limits of whose authority he may be employed.

The Inspector shall then inform him what is the price at which his contract may be redeemed; and on his depositing that price in the hands of the Inspector, the Inspector shall give notice to the employer that such immigrant requires him, within one week, to show cause why such immigrant should not redeem his contract for the sum so deposited;

and if no sufficient cause be shown within that time or such enlarged time as the Inspector deems reasonable, he shall require the production of the immigrant's instrument and endorse thereon a certificate of redemption, and out of the sum in deposit the employer of such immigrant shall be paid the value of the unexpired term of assignment.

From and after the date of such endorsement the immigrant's contract shall be deemed to have determined.

The value of the unexpired term of assignment shall be such as is provided for by the terms of the assignment or as may be fixed by any rules made, under section eighty-seven, clause (g), and in force at the date of the assignment.

85. Every immigrant whose contract has been completed or otherwise determined, shall be entitled to receive forthwith from the Immigration Agent a certificate of release in such form as may from time to time be prescribed by the Chief Commissioner.

PART V.

SUBSIDIARY RULES.

86. The Local Government of every port of embarkation under this Act may from time to time make rules consistent with this Act to regulate the following matters—

- (a) the fees payable under section fourteen;
- (b) the form of notice of the arrival of emigrants at depôts;
- (c) the management and regulation of depôts;
- (d) the medical care of emigrants during their residence at the depôts and during transport;
- (e) the clothing to be supplied to emigrants during transport;
- (f) the mode of applying for licenses under section thirty-seven;
- (g) the survey of emigrant vessels;
- (h) the procedure on embarkation;
- (i) the space to be provided for emigrants on board ships sailing from ports of embarkation under this Act;
- (j) the provisions, fuel and water to be laden on board such vessels, and the daily allowance to be issued to each emigrant;
- (k) the medical officers, medicines and medical requirements to be on board such vessels;
- (l) the ventilation and cleanliness of vessels during the journey, the control of officers, cooks and other servants, and generally the accommodation of emigrants.

87. The Chief Commissioner may, from time to time make rules consistent with this Act to regulate the following matters:—

- (a) the transport of immigrants from ports of debarkation under this Act to the places of their respective employments, their medical inspection during such transport, their detainer at any place on the way on account of sickness, and the accommodation, support and medical treatment of immigrants so detained;
- (b) the diet, clothing, medical attendance and management of immigrants in transit;
- (c) the hospital-accommodation, medicine and medical attendance to be provided by employers for their immigrants at the place of employment;
- (d) the periodical inspection of immigrants: the books to be kept by Inspectors of Immigrants; and the returns to be made by employers of immigrants;
- (e) the house-accommodation, water-supply, sanitary arrangements and supply of suitable food to be provided by employers for their immigrants;
- (f) the notice to be given and forms to be observed on the termination of assignments of immigrants;
- (g) the terms on which contracts and assignments of service may be redeemed;
- (h) the hospital-accommodation and medical care of labourers, and the nature, quality and quantity of medical drugs and other stores to be provided for them;
- (i) and generally to provide for the security, well-being, and protection of immigrants.

88. All rules made under sections eighty-six and eighty-seven shall be published—

in the case of rules made under section eighty-six, in the local official *Gazette*;

in the case of rules made under section eighty-seven in the *British Burma Gazette*;

and shall thereupon have the force of law.

Whoever wilfully contravenes any of the said rules, for the breach whereof no penalty is hereinbefore specially provided, may for every such offence be punished with fine which may extend to one thousand rupees, and in default of payment, with imprisonment for a term which may extend to six months.

PART VI.

MISCELLANEOUS.

89. If any employer's instrument or any immigrant's instrument be lost or destroyed, the Immigration Agent shall, on application of the employer or immigrant (as the case may be); and on payment of such fee as the Chief Commissioner may fix in this behalf, send the applicant a copy of the instrument so lost or destroyed; and for the purposes of this Act, every copy so delivered shall be deemed to be the original.

90. All copies made under this Act shall be evidence of the contracts to which they respectively relate.

91. All balances due from any employer of immigrants under the terms of the assignments made to him under this Act, may be levied by the Deputy Commissioner either by distress and sale of any moveable property belonging to such employer, or as if they were land-revenue due on account of the estate on which the immigrants assigned to such employer are placed.

If the full amount is not recovered by the means aforesaid, the Chief Commissioner may declare the assignment of immigrants to such employer to be void so far as regards all or any of such immigrants, and the labour of the immigrants whose assignment is so vacated shall be again at the disposal of the Chief Commissioner according to section thirty-five.

92. All contracts for service in British Burma under the Chief Commissioner which have heretofore been entered into shall be construed as if, after the words "Secretary of State for India," the words "in Council" were inserted.

SCHEDULE A.

(See section 10.)

RECRUITER'S LICENSE.

Office of the Emigration Agent for British Burma at

A. B. is hereby licensed under the British Burma Labour Law, 1875, to act as a recruiter in the district of _____ for the purpose of inducing and engaging persons to proceed to British Burma for the purpose of labouring for hire.

This license will be in force for one year only from this date.

Dated the _____ day of _____

(Sd.) C. D.,
Emigration Agent.

SCHEDULE B.

(See section 14.)

CERTIFICATE OF MEDICAL OFFICER AS TO HEALTH OF INTENDING EMIGRANT.

I hereby certify that I have this day examined A. B., and that he is, to the best of my belief and judgment, in a fit state of health, and able, in point of physical condition, to proceed to British Burma [and to work there].*

(Sd.) C. D.,
[Here add designation
of examining officer.]

*These words to be omitted in case of women and children not engaging for labour.

WHITLEY STOKES,
Secy. to the Govt. of India.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th July 1875, and was referred to a Select Committee with instructions to make their report thereon in six weeks.

No. 5 of 1875.

THE INDIAN TELEGRAPH BILL, 1875.

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22. For sending fabricated messages.
23. For retaining messages, &c., delivered by mistake.

A Bill to amend the law relating to Telegraphs in India.

Whereas it is expedient to amend the law relating to Telegraphs in India; It is hereby enacted as follows:—

I.—Preliminary.

1. This Act may be called "The Indian Telegraph Act, 1875."
- It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty;
- Commencement. And it shall come into force at once.

2. Act No. VIII of 1860 (*for regulating the establishment and management of Electric Telegraphs in India*) is hereby repealed.

But all licenses granted, declarations made, and rules framed under the said Act or under Act No. XXXIV of 1854 and now in force, shall be deemed to have been respectively granted, made and framed under this Act.

Interpretation clause.

3. In this Act—

"Telegraph" means an Electric or Magnetic Telegraph;

"Telegraph Officer" means any person employed either permanently or temporarily* in connection with a Telegraph established or maintained and worked by the Government, or by a Company or person licensed under this Act; and

"Message" means any communication sent by Telegraph, or given to a Telegraph Officer to be sent by Telegraph or to be delivered.

II.—Privileges and Powers of Government.

4. Within British India, the Governor General in Council shall have the exclusive privilege of establishing lines of Telegraph:

Provided that the Governor General in Council may grant a license to any person or Company to establish or to maintain a line of Telegraph within any part of British India, which license shall be revocable on the breach of any of the conditions therein contained.

5. On the occurrence of any public emergency (as to which an order signed by a Secretary to the Government of India shall be conclusive evidence), the Governor General in Council may take temporary possession of any line of Telegraph established or maintained by any Company or person licensed under this Act.

6. Any Railway Company, on being required so to do by the Governor General in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway a line of Telegraph, and shall give every reasonable facility for establishing and using the same.

7. The Governor General in Council may from time to time frame rules consistent with this Act, for the conduct of Telegraphs heretofore or hereafter established by Government, and may therein prescribe the regulations, conditions and restrictions according to which all messages and signals shall be transmitted thereby.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(a) prescribe rules for the conduct of any Telegraph established or maintained by any Company or person licensed under this Act;

(b) declare what portions of this Act shall be applicable to such Telegraph and to persons using the same, or employed in connexion therewith;

(c) declare that this Act or such portions thereof as may be specified in the notification shall be applicable to any Telegraph established or to be established within British India by any Foreign Prince or State with the consent of the Government of India, and to persons using such Telegraph or employed in connexion therewith.

All rules prescribed under this section shall have the force of law.

9. The Government of India shall not be responsible for any loss or damage which may occur in consequence of any Telegraph Officer failing to transmit with accuracy or to deliver any message given to

him for transmission or delivery; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously, or fraudulently.

III.—Penalties.

10. Whoever otherwise than under a license duly granted as aforesaid establishes, or after revocation of such license maintains, a line of Telegraph within British India, shall be liable to a fine not exceeding one thousand Rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding five hundred Rupees.

11. Whoever, knowing or having reason to believe that a Telegraph has been established or is maintained in contravention of this Act, uses such Telegraph for the purpose of sending or receiving messages, or performs any service incidental thereto, shall for every such offence be liable to a fine not exceeding fifty Rupees.

12. Any Railway Company neglecting or refusing to comply with the provisions of section six shall be liable to a fine of one thousand rupees for every day during which such neglect or refusal continues.

13. Whoever, without permission enters the signal-room of a Telegraph Office of the Government, or of a Company or person licensed under this Act,

and whoever refuses to quit such room on being requested to do so by any officer or servant employed therein,

and whoever wilfully obstructs or impedes any such officer or servant in the performance of his duty,

shall be liable to a fine not exceeding one hundred Rupees.

14. Whoever unlawfully cuts, breaks, throws down, destroys, injures or removes any battery, machinery, wire, cable, post or other thing whatsoever, being part of or used in or about any Telegraph or in the working thereof,

and whoever unlawfully prevents or obstructs the sending, conveyance or delivery of any message, shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

15. Whenever any act causing or likely to cause wrongful damage to any Telegraph is repeatedly committed in any place, and it appears to the Director General of Telegraphs that the employment of an additional police force in such place is thereby rendered necessary, the Local Government may, on the application of the said Director General, send such additional force to such place, and employ the same therein so long as such necessity continues, and the inhabitants of such place shall be charged with the cost of such additional police force;

and the Magistrate of the District, after enquiry, if necessary, shall assess the proportion in which such cost is to be paid by the said inhabitants according to his judgment of their respective means.

All monies payable under this section shall be recoverable either under the warrant of a Magistrate by distress and sale of the goods of the defaulter within the local limits of such Magistrate's jurisdiction, or by suit in any competent Court, and shall be applied to the maintenance of the Police force, or otherwise as the Governor General in Council may from time to time direct.

16. Any Telegraph Officer who wilfully secretes, makes away with, alters or omits to transmit any message which he may have received for transmission or delivery,

or wilfully or otherwise than by the official order of a Secretary to the Government of India or to the Local Government, or of such other officer as the Governor General in Council authorizes to give such order, intercepts any message or any part thereof,

or divulges any message, or the purport of any message or of any part thereof, to any person not entitled to receive the same,

or divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

shall be liable to imprisonment for a term not exceeding two years, or to fine, or to both.

17. Every Telegraph Officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code. And in the definition of "legal remuneration" contained in the said section 161 the word "Government" shall, for the purposes of this Act, be deemed to include a person or company licensed under this Act.

18. Any Telegraph Officer guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message is endangered, or who loiters or makes delay in the transmission or delivery of any message, shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred Rupees, or to both.

19. Any Telegraph Officer who transmits by Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government, shall be liable to imprisonment for a term which may extend to three years, or to fine, or to both.

20. Whoever transmits or causes to be transmitted by a Telegraph a message which he knows to be false or fabricated, shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

21. Whoever fraudulently retains, or wilfully secretes, or makes away with, or keeps, or detains a message which ought to have been delivered to some other person,
 For retaining messages, &c., delivered by mistake,
 or being required by a Telegraph Officer to deliver up any such message, neglects or refuses to do so,

shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

STATEMENT OF OBJECTS AND REASONS.

Doubts having been raised whether under the present Telegraph Act (VIII of 1860) rules can be framed for Telegraphs established under the repealed Act XXXIV of 1854, the present Bill has been prepared with the primary object of repealing and re-enacting Act VIII of 1860, with such change as will preclude all question as to the extent of the power above referred to.

The opportunity has been taken to make certain other alterations in the law, of which the chief are as follows:—

The present law declares that Railway Companies shall permit Government to establish Telegraphs on their land, but provides no penalty for refusing such permission; the Bill (section 12) supplies this defect.

The section relating to injuries to Telegraphs has been made more specific, the wording of 24 & 25 Vic., cap. 97, section 37, being here followed.

A clause founded on sections 14 and 15 of the Police Act V of 1861 has been introduced to empower the Local Government to employ additional Police in places where mischief to Telegraphs is repeatedly committed, and to charge the inhabitants with the cost of the Police so employed.

The clause imposing penalties for sending fabricated messages has been made to apply to messages sent by Telegraphs established by a Company or person licensed under the proposed Act, as well as to messages sent by Government Telegraphs.

Fraudulently retaining or wilfully secreting telegraphic messages is made penal. An analogous clause is contained in the Post Office Act (XIV of 1866), section 45.

Sections 16, 17, 18, 19 and 20 of Act VIII of 1860, which relate to fines and jurisdiction, have been omitted, as rendered unnecessary by Acts I of 1868 and X of 1872.

SIMLA,
 The 5th July 1875. }

A. HOBHOUSE.

WHITLEY STOKES,
 Secy. to the Govt. of India.



The Gazette of India:

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 24, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th July 1875:—

We, the undersigned Members of the Select Committee to which the Bill to regulate the transport of Native labourers to British Burma, and their employment therein, was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Office Memorandum from Department of Revenue, Agriculture and Commerce No. 114E, dated 2nd May 1873, and enclosures.
Ditto ditto ditto No. 199E, dated 18th July 1873.
Remarks by L. Hernandez, Esq. (no date).
From Government of Bengal No. 5295E, dated 22nd December 1873, and enclosures.
" " " 5380E, dated 29th December 1873, and enclosure.
" " " 103J-E, dated 8th January 1874, and enclosures.
Office Memorandum from Department of Revenue, Agriculture and Commerce No. 23E, dated 19th January 1874, and enclosures.
From Messrs. Gillanders, Arbuthnot and Company No. 3253, dated 18th February 1874, and enclosure.
From Secretary to Government, North-Western Provinces, No. 1100A, dated 21st April 1874, and enclosures.
From Secretary to Chief Commissioner, British Burma, No. 521-6, dated 29th April 1874.
" Chief Secretary to Government, Madras, No. 500, dated 5th May 1874, and enclosures.
" Chief Commissioner, British Burma, No. 463-105, dated 20th May 1874, and enclosures.

2. The principal alteration we have made in the Bill is one which depends upon the system of emigration adopted for British Burma, and a system has sprung up since the Bill was introduced into Council. At that time it was not supposed that funds for the promotion of emigration would be forthcoming from any body but the employers who wanted labourers, and the Bill was accordingly framed on the principle that the contract of an emigrant would be made with some individual employer for his whole term of service. Since that time, however, a considerable amount of emigration from peninsular India to British Burma has been effected under a system of contracts entered into by the emigrant directly with the Secretary of State in Council. The funds have been provided by the Government of British Burma, which is repaying itself out of the earnings of the emigrant. It has therefore been thought better to work on this hitherto successful line, and to adapt the provisions of the Bill to the system actually in existence.

3. The portions of the Bill, as now settled by us, which bear most strongly on the change of principle, are contained in sections 35 and 48. But it is obvious that many other parts of the Bill must have been modified by such a change, such as the amount of labour-rate, the conditions under which emigrants are assigned to private employers, the terms of redemption

of contracts, the provision for return-passages, and in particular that much of the protective machinery provided by the original Bill may be safely left to be provided by the Local Government either in the shape of statutory rules or in the shape of executive orders.

4. We now proceed to state in detail the principal alterations we have made in the Bill.

5. As the Bill now contains no clause prohibiting emigration save under the proposed Act, we have struck out the saving of contracts with Native seamen, domestic servants and skilled artisans.

6. We have omitted from the interpretation-clause the definitions of "employer," "vessel," and "master;" we have shortened the definition of "immigrant;" and we have defined "Chief Commissioner."

7. We have provided that the Emigration Agent shall be removeable at the pleasure of the Chief Commissioner, and that the Medical Inspector of Emigrants shall be remunerated as the Government of India may direct.

8. We have relieved the Emigration Agent from the duty of spontaneously instituting inquiries into the treatment of emigrants on the return-voyage. He will, however, receive and enquire into any complaints actually made.

9. We have struck out the clause as to recruiters' badges, which are objected to in many parts of the country as favouring oppression and fraud.

10. We have empowered officers who have countersigned recruiters' licenses to require them to produce the licenses, and either to cancel the signature or impound the license for cancellation by the Emigration Agent.

11. Under the new system to which we have referred it is impossible to specify in the emigrant's contract (*vide* section 13) the district in which he is to serve or the nature of his work, and in Burma it is unnecessary to specify the price of his food. We have therefore struck out the provisions relating to these matters.

12. We have provided for the medical examination of persons accompanying a recruit as his dependents.

13. We have reduced to 8 annas the fee for registering a recruit, and struck out the provision for refunding it in case of his desertion.

On the latter point we are clear enough. There is no reason why if the fee is proper to be paid for the work done, it should be repaid because of the subsequent misbehaviour of one of the parties who required the work. But it may be questioned whether the work should not be done without any fee at all. If the matter were new, we should be of opinion that the district officers might properly be called upon to discharge it gratuitously. But inasmuch as a fee is, under the General Emigration Act, charged for similar services, we have not ventured to omit it altogether from this Bill, though we are of opinion that a smaller one may properly be charged. We are not informed in what manner the fees are disposed of. The point is one on which the local authorities will have full information, and we shall be glad to receive advice whether it is desirable to abolish the fee altogether, or to lower it as now proposed.

14. We think that the Medical Inspector should examine in detail and individually all emigrants and their dependents immediately after their arrival at the *dépôt*, but that any subsequent inspection by him should be of a more general character, and for the purpose mainly of seeing that there is no danger of infectious diseases. We have made provision for the case of emigrants or dependents suffering from such disease. We have struck out the penalty imposed on the Emigration Agent by section 27 of the Bill as introduced; and we have provided a procedure where a dependent is dangerously ill.

15. We have slightly modified the procedure of the Emigration Agent in registering contracts.

16. In section 35 we have declared that when any contract has been ratified by the Emigration Agent, the emigrant shall be deemed to have contracted with him on behalf of the Chief Commissioner to proceed to British Burma, and there to labour according to the terms of his contract in any place and mode which, consistently with such terms and with the provisions of the proposed Act, the Chief Commissioner may from time to time direct.

17. We have struck out the sections relating respectively to suits against the Emigration Agent for breach of contract and to the recovery of certain sums payable by him to emigrants.

18. We have provided that Emigration Agents shall furnish the masters of emigrant vessels with proper lists of the emigrants on board.

19. We have struck out the provision contained in section 40 of the original Bill that the Emigration Agent is to ascertain that the emigrants are in a fit state of health to proceed to Burma. All duties of this kind should be discharged by the Medical Inspector.

20. We have made it clear that the offices of Emigration Agent and of Medical Inspector of Emigrants may be held by the same person.

21. Considering the shortness of the voyage from peninsular India to Burma and the circumstance that the emigrants will be under the care of Government until their arrival, we have struck out the sections (35—44) of the Bill as introduced, relating to emigrant-vessels and the embarkation of emigrants. All that they do can be done by subsidiary rules to be framed by the Local Government.

22. In section 48 we have modified the clause relating to the assignment of immigrants, and have authorized the Chief Commissioner to make rules regulating the terms on which immigrants shall be allowed to labour on their own account. We have provided (in section 49) that in assigning immigrants to particular employers, the Immigration Agent shall, so far as practicable, take care that they are not separated from their dependents.

23. For reasons similar to those stated in paragraph 21 of this report, we have struck out the clauses (51—65) of the Bill as introduced, relating to the transit of immigrants to the place of labour. The matter will be more fitly provided for by rules to be made by the Chief Commissioner.

24. We think that under the changed aspect of the Bill no labour-rate will be wanted. The expenses will be recovered from the employers under the terms of the assignments. If they are not recoverable from any employer, we have empowered the Chief Commissioner to declare the assignment of immigrants to such employer to be void. In such case their labour will again be at the disposal of the Chief Commissioner.

25. We have struck out the clauses relating to the books to be kept and the reports to be made by Inspectors of Immigrants. These matters can, if necessary, be provided for by subsidiary rules or by simple executive orders.

26. We have also omitted the two sections (74, 75) of the Bill as introduced, which relate to the fixing of the immigrant's daily tasks and to the revision of the schedule of tasks. They are inconsistent with the conditions under which emigrants are now and will be employed in British Burma.

27. By section 60 where an Inspector finds an immigrant to be permanently unfitted for labour, he will report the case to the Local Government, which will then either provide for the employment and support of the immigrant and his dependents or send them back to the place at which they were registered.

28. Fines for breach of rules as to house-accommodation will, where the persons fined are agents and fail to pay, be charged on the employers' lands and be recoverable as if they were land-revenue.

29. We have struck out, as unnecessary in Burma, the clauses relating to unhealthy estates (sections 83 and 84 of the original Bill).

30. We have struck out the clauses (sections 85, 89 of the Bill as introduced) empowering the employer of an immigrant convicted of absence from labour or desertion to assign him to another employer.

31. We think it inexpedient to provide that the punishment for desertion shall in all cases be rigorous.

32. We have simplified the procedure in cases of complaints against employers. When any such complaint is frivolous and vexatious, we have provided (in section 77) a small penalty for the complainant. Compensation awarded where wages are in arrear for more than two months, will be paid to the immigrant.

33. By sections 83 and 84 we have completely altered the redemption clauses contained in section 102 of the original Bill. The contract being made with Government, who will also in many cases be the actual employer of labour, it is intended to make it redeemable, as the present practice is, on repayment by the immigrant of the expenses properly chargeable to him according to accounts kept by the Immigration Agent. When the immigrant has been assigned to a private employer, the proper compensation to that employer for the loss of his labour will be best ascertained by the special conditions of the assignment, or by rules whenever the Local Government can find its way to some general principle applicable to all cases.

34. We have struck out the clause (section 104 of original Bill) providing for a return-passage for immigrants whose contracts have been completed. Such a provision is not only not required, but would be inexpedient in the case of British Burma—at all events under the contemplated system.

35. We have struck out, as useless, the section empowering the Governor General in Council to make subsidiary rules, and we think it unnecessary to require the sanction of the Government of India to rules made by the Chief Commissioner under the proposed Act.

36. We have expressly empowered the Chief Commissioner to make rules to regulate the notice to be given and forms to be observed on the termination of assignments of immigrants and the terms on which contracts and assignments of service may be redeemed. We have provided a penalty for wilfully contravening any rule for the breach whereof no penalty is specially provided.

37. We have added four clauses (89, 90, 91, 92) to the Bill: the *first* providing for the renewal of instruments which have been lost or destroyed; the *second* declaring that copies made under the proposed Act shall be evidence of the contracts to which they respectively relate; the *third* providing for the recovery of money due under the Act from employers of immigrants; and the *fourth* supplying a technical defect in the contracts for service in British Burma under Government which have heretofore been entered into by emigrants from peninsular India.

38. The schedule giving a form of a pass permitting immigrants to proceed to their labour-district has been struck out in consequence of the omission of the section (51) which refers to it.

39. We have made, besides these substantial changes, several transpositions and verbal amendments.

40. We think that the Bill has been so altered as to require republication: we accordingly recommend that it be republished, as now amended, in the *Gazette of India*, the *Calcutta Gazette*, the *Port Saint George Gazette*, and the *British Burma Gazette*, and that its further consideration should be postponed for the present.

SIMLA,
The 12th July 1875. }

A. HOBHOUSE.
A. EDEN.
A. J. ARBUTHNOT.
A. CLARKE.

No. II.

BRITISH BURMA LABOUR LAW, 1875.

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82. Penalty for forcibly detaining immigrant after completion of assignment, or for omitting to give notice of such completion.
83. Immigrant not assigned under Act may redeem unexpired term of contract.
84. Power to redeem contract.
- Value of unexpired term of assignment.
85. Certificate of release from contract.

PART V.

SUBSIDIARY RULES.

86. Power of Local Government of port of embarkation.
87. Power of Chief Commissioner.
88. Publication of rules.
- Penalty for breach of rules.

PART VI.

MISCELLANEOUS.

89. Renewal of lost instruments.
90. Copies made under Act to be deemed evidence of contract.
91. Recovery of balances due from employers under terms of assignment.
92. Construction of former contracts.

SCHEDULE A.—RECRUITER'S LICENSE.

SCHEDULE B.—CERTIFICATE OF MEDICAL OFFICER AS TO HEALTH OF INTENDING EMIGRANT.

A Bill to regulate the transport of Native labourers to British Burma, and their employment therein.

Whereas it is expedient to regulate the transport of Native labourers to British Burma, and their employment therein under contracts of service; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called "The British Burma Labour Law, 1875:"
 Short title. It extends to the whole of British India;
 Local extent. And it shall come into force at once.
 Commencement.
2. Madras Act No. V of 1866 (*to regulate the manner of engaging and contracting with Native inhabitants within any of the Districts subject to the Government of Port St. George, for labour to be performed in any part of India beyond the territorial limits of the Presidency of Madras*) is repealed as to engagements hereafter made in the Presidency of Madras for labour to be performed in British Burma and as to the emigration of Natives of India from such Presidency to British Burma.
 Repeal of Madras Act No. V of 1866, so far as it affects British Burma.
3. In this Act, unless there be something repugnant in the subject or context—
 Interpretation-clause.
 "Chief Commissioner" means the Chief Commissioner of British Burma.
 "Chief Commissioner."
 "Emigrants" and "emigration" respectively mean emigrants and emigration under this Act.
 "Emigrant."
 "Magistrate" means a Magistrate of a district or of a division of a district, or any Magistrate deputed by the Magistrate of the district for the control of emigration or labourers, or any Magistrate of Police for a Presidency Town.
 "Magistrate."
 "Immigrant" means any emigrant who has gone to British Burma in accordance with a contract made under the provisions of this Act.
 "Immigrant."

PART II.

OF EMIGRATION.

Emigration Agents, Medical Inspectors and Depôts.

4. At every port of embarkation the Chief Commissioner shall, with the consent of the Local Government, appoint an Emigration Agent, to whom such remuneration shall be assigned as the Government of India may from time to time direct. Such Agent shall be removable at the pleasure of the Chief Commissioner.
 Appointment of Emigration Agent.
- At every such port the Local Government shall appoint a competent person to be Medical Inspector of Emigrants, and such remuneration shall be assigned to him as the Governor General in Council may from time to time direct.
 Appointment of Medical Inspector.

5. Every such Emigration Agent and Medical Inspector shall be a public servant within the meaning of the Indian Penal Code.
 Emigration Agent and Medical Inspector to be deemed public servants.

6. In addition to the special duties hereinafter assigned to him, every such Emigration Agent shall—
 Duties of Agent.

- (a) protect and aid with his advice all emigrants;
- (b) cause, so far as he can, all provisions of this Act to be complied with;
- (c) inspect on arrival all vessels bringing return emigrants to the port at which he is Agent;
- (d) receive and enquire into the complaints (if any) of the treatment of such emigrants during the voyage and (if necessary) report thereon to the Local Government;
- (e) aid and advise such returned emigrants when requested by them to do so.

7. Every Emigration Agent, and all persons in charge of, or employed in, any depôt or in any vessel licensed to carry emigrants as hereinafter provided, shall give the Medical Inspector every facility for making such inspections, examinations and surveys as may be necessary or proper under this Act, and shall afford him all such information as may be reasonably required by him.
 Emigration Agent, &c., to give information to Medical Inspector.

8. At each port of embarkation the Emigration Agent shall establish a suitable depôt for emigrants.
 Establishment of depôts for emigrants.

Recruiters.

9. Each Emigration Agent shall license as many fit persons as he thinks necessary to be recruiters of labourers for British Burma.
 Licensing of recruiters.

Every recruiter shall be licensed to obtain labourers from one or more districts to be named in the license.

10. The license granted to a recruiter, under section nine, may be in the form set forth in Schedule A hereto annexed.
 Form of license.

No license shall be in force for a longer period than one year, and in case of misconduct on the part of the recruiter the Emigration Agent may cancel his license before the expiration of the period for which it was granted.
 Period for which it shall remain in force.

11. A recruiter shall not be deemed to have obtained authority in any place other than a Presidency town to engage or attempt to engage a Native of India to become an emigrant until his license has been countersigned by the Magistrate of the district or of the division of the district, or to have obtained such authority in any Presidency town until his license has been countersigned by the Commissioner or Deputy Commissioner of Police.
 Countersignature of Magistrate to recruiter's license.

12. No such officer shall countersign a recruit-
License not to be countersigned until recruiter's fitness is ascertained.
 er's license unless and until he has satisfied himself, by such enquiry as he thinks fit, that the licensee is not by character or from any other cause unfitted to be a recruiter under this Act.

If any officer who has countersigned a license afterwards finds reason to think that the licensee is by character or other cause unfitted to be a recruiter under this Act, he may require the licensee to produce the license and may cancel his signature; or he may, if he thinks fit, impound the license and send it to the Emigration Agent for cancellation.

Every such officer refusing to countersign a recruiter's license, or cancelling his signature, shall without delay report his refusal or cancellation and the grounds of it to the Emigration Agent to whose authority the recruiter is amenable.

Contracts and Registration and Journey to Depôts.

13. Any person desiring to emigrate under this Act may enter into a contract with a recruiter to proceed to British Burma and there serve for a fixed period of not more than three years from the date of his arrival at the port of debarkation.

Every such contract shall be in writing and shall specify—

- (a) The term of service;
- (b) The number of days and hours of work;
- (c) The monthly wages in money;
- (d) The persons (if any) intending to accompany the recruit as his dependents.

The monthly rate of wages shall in no case be less than seven rupees for an adult male labourer.

No recruit shall be required to work more than six days in one week, or more than six consecutive hours, or more than nine hours a day.

No deduction shall be made from the wages of a recruit on account of the rest for one day in each week. The obligation to provide on holidays for the care of animals, and the necessities of daily life, shall not be considered as work.

No emigrant shall be bound by the provisions of this Act unless he has entered into a contract in accordance with this section.

14. Every recruit who has entered into such a contract as aforesaid shall be brought by the recruiter before the Civil Surgeon of the district or such other medical officer as the Local Government appoints in that behalf or, in default of such appointment, before such medical officer as the Magistrate directs.

The medical officer shall thereupon examine the recruit, and shall either reject him or shall certify that he is in a fit state of health and able in point of physical condition to proceed to British Burma and to work there.

If it is intended that any persons shall accompany the recruit as his dependents, the recruiter shall also bring them before the medical officer for the purpose of obtaining certificates that they are in a fit state of health and able in point of physical condition to perform the journey to British Burma; and the medical officer shall

examine the dependents and shall give or refuse certificates according to his opinion as to their fitness and ability.

Certificates shall be in the form set forth in Schedule B hereto annexed, and the recruiter shall pay to the medical officer such fee for each person examined as the Local Government may from time to time prescribe.

15. Every certified recruit and every accompanying dependent shall appear with the recruiter before a Magistrate in the district or Presidency town within which the contract with the recruit was entered into.

16. The Magistrate shall thereupon inspect the instrument of contract and the medical certificate of the recruit, and shall, apart from the recruiter, examine the recruit with reference to his contract, and if it appears that the recruit understands the nature of the contract he has entered into as regards the particulars specified in section thirteen, and that he is willing to fulfil the same, the Magistrate shall register—

- (a) the name, the father's name, and the age of such recruit;
- (b) the name of the village or place in which he resides;
- (c) the port of embarkation to which it is intended that he shall proceed;
- (d) the several particulars specified in the instrument of contract made under section thirteen.

The recruit shall thereupon be deemed an emigrant under this Act.

If the Magistrate thinks that the recruit does not understand the nature of his contract, or has been induced to enter into it by fraud or misrepresentation, he shall refuse to register him.

17. On the appearance of any person claiming to be dependent on an emigrant, the Magistrate, after inspecting the medical certificate, shall, apart from the recruiter, examine such person if able to give intelligent answers to questions as to his dependence upon the emigrant whom he is about to accompany, and as to his willingness to accompany such emigrant.

If the Magistrate is satisfied as to the said dependence and willingness, he shall register the dependent as a dependent on such emigrant.

But if the Magistrate sees reason to doubt such dependence or willingness, he may refuse to register the alleged dependent.

18. The Magistrate shall furnish to every emigrant an authenticated copy on substantial paper of the matters registered under sections sixteen and seventeen.

Such copy is hereinafter called "the emigrant's instrument" or the "immigrant's instrument."

Another authenticated copy of the matters so registered, together with the original certificate of the medical officer, shall be forthwith forwarded by the Magistrate to the Emigration Agent at the port of embarkation to which the emigrant is about to proceed.

For each registration of a recruit under this Act the recruiter shall pay to the officer making it a fee of eight annas.

Registration fee.

19. When the registration under this Act is completed, the emigrant and his dependents may be moved to the depôt at their port of embarkation.

Journey to depôt.

20. The recruiter himself, or a competent person appointed by him with the approval of the Magistrate by whom such emigrants have been registered, shall accompany and take care of all emigrants and their dependents while journeying to the depôt.

Care of emigrants on journey to depôt.

The Magistrate shall give to every person so appointed a certificate under his signature, stating that he has been appointed to accompany and take care of certain emigrants during their journey to the depôt.

Every recruiter by whom any emigrant or dependent is forwarded to a depôt shall, throughout the journey, provide him with proper and sufficient food and lodging.

21. Whoever, being a duly licensed recruiter, removes for the purpose of emigration any recruit before the completion of such registration as aforesaid;

Penalties for infringing provisions as to recruitment.

and whoever by means of intoxication, violence, fraud, false pretences or misrepresentation induces any Native of India to enter into a contract for labour to be performed in British Burma, or to proceed to or towards any seaport for the purpose of proceeding to British Burma without having entered into any contract;

and whoever wilfully neglects to supply any emigrant or dependent under his care with proper and sufficient food and lodging, or otherwise ill-treats such emigrant or dependent on his journey to the depôt;

and whoever forwards, sends or conveys any such emigrant or dependent with intent to contravene the provisions of this Act;

shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Procedure on arrival of Emigrants at Depôt.

22. The Emigration Agent shall, within twenty-four hours after the arrival at the depôt of any emigrant, give to the Medical Inspector notice in writing of such arrival.

Notice of arrival of emigrants at depôt to be given to Medical Inspector.

23. The copy of the matters so registered and the medical certificate of every emigrant forwarded to the Emigration Agent as provided by section eighteen, shall be shown to the Medical Inspector at the port of embarkation, and all emigrants and their dependents shall be examined by the Medical Inspector immediately after their arrival at the depôt.

Medical Inspector to examine emigrants.

24. The Medical Inspector of emigrants shall also, at least once in every week, inspect the emigrants in the depôt, and examine into the state of the

Inspection of depôts.

depôt and the manner in which the emigrants are therein lodged, fed, clothed and otherwise provided for and attended to.

25. It shall be the special duty of the Medical Inspector to take care that no emigrant or dependent is suffering from any disease calculated to be dangerous to his neighbours, and to isolate or to exclude from the depôt and from embarkation persons who are so suffering.

Treatment of emigrant or dependent suffering from infectious disease.

Any person so suffering may, if the Medical Inspector thinks fit, be removed to a proper hospital for treatment.

26. If the Medical Inspector has reason to think that any emigrant is in such a state of health that his journey to British Burma, or detention in the depôt, would be dangerous to himself or others, or that he is unfit for labour in British Burma, he shall so certify to the Emigration Agent; and in case any emigrant is in such a state of health as aforesaid the Emigration Agent shall pay to such emigrant such sum as is necessary to enable him to return to the place at which he was registered:

Emigration Agent to pay return expenses of rejected emigrants.

And any emigrant who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake such journey shall be entitled to be fed, lodged and attended to at the port of embarkation at the expense of the Emigration Agent, until he is reported by the Medical Inspector fit to undertake such journey.

27. If a dependent has accompanied such emigrant, the Emigration Agent shall pay such sum as is necessary to enable him to return to the place at which he was registered, as well as to feed and lodge him during the detention (if any) of the emigrant in the depôt.

Return expenses of dependents.

28. If the Medical Inspector sees reason to think that any dependent is in such a state of health that his journey to British Burma or his detention in the depôt would be dangerous to himself or others, he shall so certify to the Emigration Agent; and thereupon the emigrant to whom such dependent is attached shall be entitled, if he so wishes, to return as if he himself had been certified to be unfit to proceed under section twenty-six.

Procedure where dependent is dangerously ill.

If the emigrant still desires to proceed, then the dependent shall be kept and be returned to the place at which he was registered as if he were an emigrant falling under section twenty-six.

29. If the Medical Inspector sees no reason to certify in the manner provided in section twenty-six or section twenty-eight of any emigrant or dependent, he shall countersign the copy of the emigrant's instrument which is in the possession of the Emigration Agent.

Countersignature by Medical Inspector where emigrant or dependent is passed by him.

30. If, upon the arrival of any emigrant or dependent at the depôt, it appear that he has suffered any ill-treatment, or that the recruiter has failed to provide him with proper and sufficient food and

Procedure in case of ill-treatment on journey.

lodging during the journey to the dépôt, the Local Government may order the Emigration Agent to pay him a reasonable sum by way of compensation.

31. When the copy of an emigrant's instrument has been countersigned by the Medical Inspector under section twenty-nine, the Emigration Agent shall ratify the contract into which the emigrant has entered, by countersigning the emigrant's instrument and the authenticated copy thereof forwarded to the Emigration Agent under section eighteen.

Ratification of contracts of emigrants passed by Medical Inspector.

32. A copy of every such instrument shall be entered in a register to be kept by the Emigration Agent for the purpose, and a copy of such entry authenticated by himself shall be forwarded by him to the Immigration Agent at the port of debarkation.

Registration of contracts.

33. Any emigrant who, without reasonable cause, refuses to produce his instrument when required by the Emigration Agent, or in any respect to comply with the terms of his contract, shall be punished with a fine equal in amount to the cost incurred in engaging, registering and conveying him to the dépôt, and in default of payment of such fine with imprisonment which may extend to two months, and such emigrant may forthwith be discharged from the dépôt.

Procedure if emigrant refuses to produce instrument.

A certificate signed by the Emigration Agent that reasonable cause for refusing to produce the emigrant's instrument has not been shown, shall be admissible as *prima facie* evidence in any proceeding taken under this section.

A certificate signed by the Emigration Agent stating the cost incurred in engaging, registering and conveying the emigrant to the dépôt shall be conclusive evidence of the amount of such cost.

Every fine levied under the provisions of this section shall be paid to the Emigration Agent.

34. If within thirty days after the arrival at a dépôt of any emigrant, the Emigration Agent does not offer to ratify such contract in manner aforesaid,

Procedure if Agent neglects to ratify contract.

or if the Emigration Agent, without the consent of the Local Government, refuses to be bound by the contract made with the emigrant,

the Local Government may order the Emigration Agent to pay to such emigrant such sum of money as is necessary to enable him, together with the dependents (if any) upon him, to return to the place where he was registered, and in such case the emigrant shall be released from his contract.

35. When the contract has been ratified by the Emigration Agent, the emigrant shall be deemed to have contracted with the Secretary of State for India in Council to proceed to British Burma, and there to labour according to the terms of his contract in any place and mode which, consistently with such terms and with the provisions of this Act, the Chief Commissioner or any officer appointed by him in that behalf may from time to time direct.

Consequence of ratification.

Emigrant vessels and embarkation of Emigrants.

36. When the contract of any emigrant has been duly ratified as aforesaid, he may be forwarded to British Burma, together with his registered dependents if any.

When contract is ratified, emigrant may be forwarded to British Burma.

37. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in such vessel has been obtained from the Local Government of the port of embarkation.

No vessel to carry emigrants without a license.

The granting or withholding of any such license shall be in the discretion of the Local Government.

38. Every person obtaining a license under the Licensee bound to last preceding section shall comply with provisions be bound to comply with the provisions of this Act and the rules made hereunder, so far as such provisions and rules relate to him.

And any such person failing to comply with any of such provisions or rules shall be liable to a fine not exceeding one thousand rupees.

39. Before leaving the port of embarkation, the Emigration Agent shall furnish the master of any vessel licensed to carry emigrants with a list specifying as accurately as may be the names, ages and occupations, and the names of the fathers of the emigrants on board,

List of emigrants.

and the master shall obtain from the Emigration Agent and the Medical Inspector of Emigrants certificates under their respective hands, to the effect that they have in respect of the emigrants proceeding in such vessel done all that is hereinbefore required to be done on the part of such Emigration Agent and Medical Inspector respectively, and that, to the best of their knowledge, all the directions herein contained for ensuring the health, comfort and safety of the emigrants have been duly complied with, as well as all rules for the time being in force under section eighty-six.

Certificates from Emigration Agent and Medical Inspector.

40. If any emigrant without sufficient cause refuses or neglects to embark when called upon by the Emigration Agent so to do,

Procedure if emigrant refuses to embark.

it shall not be lawful to compel such emigrant or his dependents (if any) to embark, or to put him or them on boardship against his will, or to detain him or them against his or their will at the dépôt or elsewhere; but nothing in this section shall diminish or affect the civil or criminal liabilities which such emigrant incurs by reason or in respect of his refusal or neglect aforesaid.

Explanation.—The arbitrary refusal of any such dependent to embark shall not be deemed 'sufficient cause' within the meaning of this section.

Every case in which an emigrant is charged under this section before a Magistrate of Police in a Presidency town shall be heard and determined in a summary manner; and every such emigrant shall on conviction, whether by such Police Magistrate or any other Magistrate, be punished in the manner provided in section 492 of the Indian Penal Code for the punishment of offences under that section.

41. The Emigration Agent shall, before the embarkation of any emigrant, ascertain that he has in his possession the instrument mentioned in section eighteen.

Procedure as to emigrant's instrument.

If it appear to the satisfaction of the Emigration Agent that any emigrant has lost such copy, the Agent may furnish him with another copy of such instrument to be made from the copy forwarded by the Magistrate under section eighteen, and shall thereupon allow such emigrant to embark.

42. The offices of Emigration Agent and of Medical Inspector of Emigrants may be held by the same person; but in such case he shall perform only such of the duties hereinbefore prescribed for the two offices as are necessary for carrying out in substance the provisions of this Part.

Provision for offices of Emigration Agent and Medical Inspector being held by the same person.

PART III.

DEBARKATION AND TRANSIT TO DISTRICTS OF LABOUR.

Officers and Depôts at ports of debarkation.

43. The Chief Commissioner shall, at each port of debarkation, appoint an Immigration Agent and a Medical Inspector of Immigrants, and shall, by notification in the *British Burma Gazette*, define the local limits within which every such Agent and Inspector shall exercise the powers conferred upon him by this Act.

Immigration Agent and Medical Inspector of Immigrants.

44. At every such port the Immigration Agent shall establish a suitable depôt for immigrants under this Act, and provide them with proper and sufficient lodging, food, clothing and medical attendance in such depôt until they are despatched to the place of labour.

Such depôt shall be at all times open to the inspection of the Medical Inspector of Immigrants.

Procedure on arrival of Vessel carrying Immigrants.

45. Upon the arrival at any port of debarkation of any vessel carrying immigrants, the Master of such vessel shall at once report his arrival to the Immigration Agent, and no immigrant on board shall be allowed to land without the permission of such Agent first obtained.

Any Master of a vessel who allows any immigrant to land without such permission may be punished by a fine which may extend to fifty rupees for each person so landed.

46. Upon receipt of the report of arrival of any vessel carrying immigrants, the Immigration Agent or such other officer as he deposes in this behalf shall forthwith go on board such vessel and satisfy himself that the vessel has on board its proper list of immigrants, and shall compare the immigrants on board with the list.

Examination of immigrants by Immigration Agent.

The Medical Inspector shall also, as soon as may be, examine the immigrants, in order to ascertain whether any of them are suffering from contagious or infectious disease.

Examination by Medical Inspector.

Any immigrant suffering under any such disease may, if the Medical Inspector thinks fit, be removed to a proper hospital for treatment.

47. The Immigration Agent may if he thinks fit, and shall on complaint made by any of the immigrants, inquire into the treatment of the immigrants during the voyage, and submit a report thereon to the Chief Commissioner.

Enquiry into treatment of immigrants on the voyage.

Assignment of Immigrants.

48. The Chief Commissioner may from time to time make rules consistent with this Act regulating—

- (a) applications to the Immigration Agent by persons desiring to employ immigrants,
- (b) the terms on which the Agent shall assign immigrants to such persons respectively,
- (c) the terms on which immigrants shall be allowed to labour on their own account.

All such rules shall be published in the *British Burma Gazette*.

49. In assigning immigrants to particular employers, the Immigration Agent shall, so far as may be practicable, take care that they are not separated from their dependents.

50. The assignment may be made in such form as the Chief Commissioner shall by rule direct, and the Immigration Agent shall send each employer a copy authenticated by himself of the entry forwarded to him by the Emigration Agent under section thirty-two.

Such copy is hereinafter called "the employer's instrument."

51. The Immigration Agent shall endorse on the instrument of every immigrant assigned under section fifty an entry showing—

- (a) the name and residence of his employer, and
- (b) the period for which the immigrant is so assigned.

Entry of assignment in immigrant's instrument.

PART IV.

THE LABOUR DISTRICTS AND RELATIONS OF EMPLOYER AND IMMIGRANT.

Inspectors of Immigrants.

52. The Chief Commissioner may appoint so many Inspectors and Assistant Inspectors of Immigrants as he thinks proper, and may from time to time define, by notification in the *British Burma Gazette*, the local limits within which each such Inspector and Assistant Inspector shall exercise and perform the powers and duties conferred and imposed on him by this Act.

The Chief Commissioner may confer all or any of the powers of a Magistrate on such Inspectors and Assistant Inspectors; and they shall be public

Appointment of Inspectors and Assistant Inspectors.

Powers of Inspectors.

servants within the meaning of the Indian Penal Code.

53. Every employer of immigrants under this Act shall, on such days and in such mode as may from time to time be prescribed by rule, under section eighty-seven, make out in writing, and deliver to the Inspector of Immigrants, a return of the number of immigrants so employed by him, and a return of the sickness and mortality among them during the preceding six months.

54. Any employer refusing, or wilfully omitting, to send in any such return as mentioned in the last preceding section, or knowingly sending in an incorrect return, shall, on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees;

and a certificate under the hand of the Inspector to whom such return ought to have been sent, stating that such return has not been received, or is incorrect as aforesaid, shall be received as *prima facie* evidence of the truth of such statement.

55. Every Inspector of Immigrants shall, so often as may be directed by the Chief Commissioner, visit all lands and houses within the limits of his authority on or in which any immigrant is employed, and inspect every building or place in any way used by or for any such immigrants, or in or on which any such immigrants are employed and investigate the condition of such immigrants; and for such purpose the Inspector may require that any immigrant shall be produced before him with all papers relating to his contract under this Act, and may make such enquiries as may to him seem proper.

56. Any Magistrate exercising jurisdiction in the district, and any person authorized by him in writing in this behalf may at any time—

(a) enter and inspect any building or place wholly or partially used by or for immigrants,

(b) require that any immigrant be brought before him, and

(c) make any enquiries which he thinks proper touching the condition or treatment of any immigrant.

57. Any employer, and any person acting under his orders or on his behalf, who wilfully obstructs or impedes any visit, entry, inspection or enquiry under section fifty-five or section fifty-six, shall be liable for every such offence to a fine which may extend to five hundred rupees.

Suspension or Cancellation of Assignment.

58. The Inspector of Immigrants, within the local limits of whose authority any immigrant is employed, may suspend, for such period as he thinks fit, the assignment of such immigrant, or any particular term of his contract under this Act, if he be in the judgment of the Inspector temporarily incapacitated

for the performance thereof by reason of sickness, or other sufficient cause:

Provided that every such immigrant shall, during such incapacity, receive from his employer such subsistence money not exceeding his wages as the Inspector thinks sufficient.

59. If any immigrant is compelled to perform any species of labour for which he is at the time manifestly unfit, or which is at variance with the terms of his assignment, the person so compelling him shall, on conviction by a Magistrate, be liable to a fine not exceeding one hundred rupees.

60. If, in the opinion of the Inspector of Immigrants, any immigrant is permanently incapacitated for the performance of his contract, according to the terms of his assignment, the Inspector shall certify to that effect in writing, and deliver such certificate to the employer of such immigrant, or to his manager or agent, and from the date of such delivery the assignment of such immigrant shall be wholly vacated.

The Inspector shall report every such case to the Local Government, and the Local Government shall either provide for the employment and support of the immigrant and his dependents, or return them to the place at which they were registered.

Provisions for the health and comfort of Immigrants.

61. Every employer of immigrants shall be bound to provide for them sufficient and proper house accommodation, water-supply and sanitary arrangements, and such food as the Chief Commissioner may from time to time direct.

62. Any Inspector or Assistant Inspector who is himself a Magistrate, may institute within the local limits of his jurisdiction, a local enquiry whether any employer has provided for his immigrants sufficient and proper house-accommodation, water-supply, sanitary arrangements or food.

At the instance of any Inspector or Assistant Inspector, a similar enquiry may be made by any Magistrate.

Every such enquiry shall be dealt with and conducted as an enquiry by a Magistrate under the Code of Criminal Procedure.

63. Any person disobeying rules passed under section eighty-seven, clause (c), shall be liable to a fine not exceeding five hundred rupees, and the convicting Magistrate may order compliance with such rules by the person bound to, obey the same within a reasonable time to be fixed in the order.

If such person wilfully omits to comply with such order, he shall be liable to a fine not exceeding fifty rupees a day for every day that such omission continues.

If such person is an agent and fails to pay the fine, such fine shall be charged on the employer's

land and shall be recoverable in the manner provided by section ninety-one.

64. Wherever such hospital accommodation or medical charge, as required by rules made under section eighty-seven, or medicines of such quality and kind, and according to such scale as aforesaid, have not been provided, the employer or other person wilfully neglecting to provide the same shall be liable to a fine not exceeding one hundred rupees for every week during which any such default continues.

Complaints against Immigrants.

Penalty on immigrant absents himself without sufficient cause,

or without reasonable cause neglects or refuses to labour as required by his employer or according to the terms of his contract,

may, on conviction by a Magistrate, be sentenced to lose all claim to wages or allowances during such absence, neglect or refusal, and also to forfeit to his employer a sum not exceeding eight annas for each day during which such absence, neglect or refusal has continued; and in case such absence, neglect or refusal has exceeded seven days, or in case such immigrant has been already convicted of the same offence within a period of three months, he may be further sentenced at the request of the employer to imprisonment for fourteen days.

Explanation.—Ill-treatment of such immigrant by his employer, or the neglect of the employer to fulfil any condition of the contract, may be 'reasonable cause' within the meaning of this section.

66. If any immigrant deserts or attempts to desert from his employer's service, such employer or any other person acting in his behalf may, without warrant, and without the assistance of any police officer (who, nevertheless, shall be bound to give such assistance if called upon to do so), apprehend such immigrant wherever he may be found:

Provided that if he be found in the service of another employer, he shall not be arrested without a warrant.

The employer or other person apprehending an immigrant under this section shall, within a reasonable time after such apprehension, give him in charge at the nearest police station, and there enter the charge upon which he has been apprehended.

67. Any immigrant so given in charge shall be conveyed, without delay, to the nearest Magistrate having jurisdiction.

If the place from which such immigrant is charged with having deserted be within the jurisdiction of such Magistrate, he shall himself adjudicate upon the charge; but if not, he shall forward the said immigrant, under custody, to the Magistrate within the local limits of whose jurisdiction such place is situate, who shall adjudicate upon such charge.

68. Every immigrant deserting from his employer's service shall be liable to imprisonment which may extend to one month.

Every immigrant who after having been so convicted again deserts from his employer's service, shall be liable to imprisonment which may extend to two months.

Every immigrant who after having been twice so convicted again deserts from his employer's service, shall be liable to imprisonment which may extend to three months.

69. Whenever any immigrant has actually suffered imprisonment amounting in the whole to six months for desertion or unlawful absence from his employer's service, the Inspector shall, if the employer so desire, cancel the assignment of such immigrant by endorsement on the immigrant's instrument, or, if that is not forthcoming, by any writing under his hand.

70. All the provisions of this Act regarding the desertion or unlawful absence of immigrants shall apply to immigrants who desert while in transit to the district in which they are assigned to labour;

and such immigrants may be tried either in such district or in the district in which they may be apprehended.

71. Whoever knowingly and wilfully entices away, harbours, or employs, or attempts to entice from his employment any immigrant before he has been lawfully released from his contract, shall be liable to a fine not exceeding five hundred rupees, and the convicting Magistrate may award to the employer of such immigrant the whole or any portion of such fine.

72. The employer, or any person authorized to act for the employer, of any immigrant sentenced to imprisonment for any offence under this Act, may apply to the Magistrate, at any time before the expiry of such sentence, that such immigrant be made over to him for the purpose of completing his term of labour;

and the Magistrate may, if he see good cause, make over such immigrant to his employer, and in that case the Magistrate shall cancel the remainder of the sentence passed on the immigrant, and shall endorse on his instrument, or, if such instrument is not forthcoming, shall give him, a memorandum of such cancellation.

73. When any immigrant has been sentenced to imprisonment for any offence under this Act, the Magistrate shall (subject to the provisions of section sixty-nine) make over such immigrant on the termination of his imprisonment to any person appointed on the part of his employer to receive charge of him;

and no conviction under this Act, or imprisonment under such conviction, shall, save as aforesaid, operate as a release to any immigrant from the terms of his contract:

The period of imprisonment shall in no case be prolonged by reason of there being no person present on the part of the employer to take charge of the immigrant at the expiry of his sentence; but such immigrant shall, in that case, be sent to the place, or principal place of business of such employer, and the expense of so sending him shall be levied from the employer in the manner provided by section ninety-one.

74. The duration of every unlawful absence from labour, of which any immigrant may be convicted, and every period of imprisonment for any offence under this Act, shall, on the request of the employer, be endorsed by the convicting Magistrate on the employer's instrument,

and no such period of imprisonment or unlawful absence so endorsed shall be reckoned as part of the term for which the immigrant is bound to serve, but such term shall extend to such further period as is equivalent to the aggregate amount of the imprisonment and unlawful absence so endorsed.

Complaints against employers.

75. If any immigrant states to his employer, or to any person acting for him, that he desires to make a complaint to the Inspector of Immigrants of personal ill-usage or breach of any provision of this Act on the part of such employer or other person, the person to whom such statement has been made shall, within forty-eight hours, send notice thereof in writing to the Inspector, and in default of so doing, such person shall be liable to a fine not exceeding one hundred rupees.

76. Whenever any Inspector of Immigrants receives such notice in writing as aforesaid, or has other reasonable grounds for believing that any immigrant within the local limits of his jurisdiction has been injured by personal ill-usage or breach of any provision of this Act as aforesaid, he shall, so soon as conveniently may be, make full enquiry into the matter complained of.

77. If, upon such enquiry, the Inspector finds that the complaint is untrue or frivolous or vexatious, he shall enter in his book the particulars of such complaint, and a short statement of the grounds of his finding respecting it, and shall dismiss the complaint;

and in such case shall endorse on the employer's instrument the number of days during which the complainant has been absent from work in consequence of such enquiry,

and such number of days shall be added to the period for which the complainant had contracted to serve,

and every such endorsement shall be conclusive evidence that such immigrant has absented himself from his labour without sufficient cause during the number of days so endorsed.

When the complaint is frivolous and vexatious, the complainant shall be liable on conviction before a Magistrate to a fine not exceeding five rupees.

78. If, upon enquiry as aforesaid, the Inspector is of opinion that the complaint is well founded, he shall, if a Magistrate, dispose of the case in due course of law.

If the Inspector is not a Magistrate, he shall without delay send the complainant and his witnesses to the nearest Magistrate, and such Magistrate shall thereupon dispose of the case in due course of law.

79. If, upon the complaint of any immigrant it is proved to the satisfaction of the Magistrate that the wages of such immigrant are in arrear to an amount exceeding the total of his wages for two months, such Magistrate may award to the complainant the amount which appears to be then due to him; and also, by way of compensation, such further sum, not exceeding that amount, as appears to the Magistrate to be just; and in case of default, the entire sum shall be recovered in manner provided by section ninety-one, and shall be paid to the complainant.

80. If any employer, or any person placed in authority over any immigrant by such employer, is convicted of any offence causing injury to the person or property of such immigrant and triable under the Code of Criminal Procedure by the Court of Session;

or if any such employer, or other person as aforesaid, is twice convicted of any such offence against such immigrant triable under the said Code by a Magistrate;

or if it be proved before a Magistrate that the wages of such immigrant are in arrear to an amount exceeding the total of such wages for three months;

or if a Magistrate, on the report of the Inspector and after due enquiry in the presence of the parties, is satisfied that any immigrant has been subjected to ill-usage by such employer or any other person placed in authority over the immigrant by such employer, or has been compelled by such employer or person to perform any labour when known to such employer or person to be unfit for it,

the Magistrate may, if he think fit, on the application of the immigrant, in each of such cases cancel the assignment of such immigrant, and award to him, in addition to the wages (if any) due for service performed, compensation not exceeding thirty rupees.

Every such cancelment shall be certified by the Magistrate on the back of the immigrant's instrument, or if such instrument be not forthcoming, by writing under the Magistrate's hand delivered to the immigrant.

The compensation may be recovered in manner provided by section ninety-one.

Determination of Assignments and Contracts.

81. Every immigrant assigned under this Act, on completing the term of his assignment or on the avoidance of the same may appear before the Inspector or Immigration Agent, who shall, on being satisfied that

8. Power to frame rules for Telegraphs established by license, and to declare Act applicable to Telegraphs established within British India by Foreign Powers.
9. Government not responsible for loss or damage.

III.—Penalties.

10. Penalty for establishing or maintaining unlicensed Telegraphs.
11. For using or working such Telegraphs.
12. For opposing establishment, &c., of Telegraphs on Railway land.
13. For intruding into signal-room, &c.
14. For injuring Telegraphs.
15. For preventing the sending, &c., of messages.
16. Power to employ additional police in places where mischief to Telegraphs is repeatedly committed.
17. Penalty for omitting to transmit or deliver messages.
18. For intercepting or divulging messages.
19. For offering bribes to Telegraph Officers.
20. For misconduct.
21. For sending messages without payment to Government.
22. For sending fabricated messages.
23. For retaining messages, &c., delivered by mistake.

A Bill to amend the law relating to Telegraphs in India.

WHEREAS it is expedient to amend the law relating to Telegraphs in India; It is hereby enacted as follows:—

I.—Preliminary.

1. This Act may be called "The Indian Telegraph Act, 1875."

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty;

And it shall come into force at once.

2. Act No. VIII of 1860 (for regulating the establishment and management of Electric Telegraphs in India) is hereby repealed.

But all licenses granted, declarations made, and rules framed under the said Act or under Act No. XXXIV of 1854 and now in force, shall be deemed to have been respectively granted, made and framed under this Act.

Interpretation clause. 3. In this Act—

"Telegraph" means an Electric or Magnetic Telegraph;

"Telegraph Officer" means any person employed either permanently or temporarily in connection with a Telegraph established or maintained and worked by the Government, or by a Company or person licensed under this Act; and

"Message" means any communication sent by Telegraph, or given to a Telegraph Officer to be sent by Telegraph or to be delivered.

II.—Privileges and Powers of Government.

4. Within British India, the Governor General in Council shall have the exclusive privilege of establishing lines of Telegraph:

Provided that the Governor General in Council may grant a license to any person or Company to establish or to maintain a line of Telegraph within any part of British India, which license shall be revocable on the breach of any of the conditions therein contained.

5. On the occurrence of any public emergency (as to which an order signed by a Secretary to the Government of India shall be conclusive evidence), the Governor General in Council may take temporary possession of any line of Telegraph established or maintained by any Company or person licensed under this Act.

6. Any Railway Company, on being required so to do by the Governor General in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway a line of Telegraph, and shall give every reasonable facility for establishing and using the same.

7. The Governor General in Council may from time to time frame rules consistent with this Act, for the conduct of Telegraphs heretofore or hereafter established by Government, and may therein prescribe the regulations, conditions and restrictions according to which all messages and signals shall be transmitted by such telegraphs.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(a) prescribe rules for the conduct of any Telegraph established or maintained by any Company or person licensed under this Act;

(b) declare what portions of this Act shall be applicable to such Telegraph and to persons using the same, or employed in connexion therewith;

(c) declare that this Act or such portions thereof as may be specified in the notification shall be applicable to any Telegraph established or to be established within British India by any Foreign Prince or State with the consent of the Government of India, and to persons using such Telegraph or employed in connexion therewith.

All rules prescribed under this section shall have the force of law.

9. The Government of India shall not be responsible for any loss or damage which may occur in consequence of any Telegraph Officer failing to transmit with accuracy or to deliver any message given to

him for transmission or delivery; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously, or fraudulently.

III.—Penalties.

10. Whoever otherwise than under a license duly granted as aforesaid establishes, or after revocation of such license maintains, a line of Telegraph within British India, shall be liable to a fine not exceeding one thousand Rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding five hundred Rupees.

11. Whoever, knowing or having reason to believe that a Telegraph has been established or is maintained in contravention of this Act, uses such Telegraph for the purpose of sending or receiving messages, or performs any service incidental thereto, shall for every such offence be liable to a fine not exceeding fifty Rupees.

12. Any Railway Company neglecting or refusing to comply with the provisions of section six shall be liable to a fine of *one thousand* rupees for every day during which such neglect or refusal continues.

13. Whoever, without permission enters the signal-room of a Telegraph Office of the Government, or of a Company or person licensed under this Act,

and whoever refuses to quit such room on being requested to do so by any officer or servant employed therein,

and whoever wilfully obstructs or impedes any such officer or servant in the performance of his duty,

shall be liable to a fine not exceeding one hundred Rupees.

14. Whoever unlawfully cuts, breaks, throws down, destroys, injures or removes any battery, machinery, wire, cable, post or other thing whatsoever, being part of or used in or about any Telegraph or in the working thereof,

and whoever unlawfully prevents or obstructs the sending, conveyance or delivery of any message,

shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

15. Whenever any act causing or likely to cause wrongful damage to any Telegraph is repeatedly committed in any place, and it appears to the Director General of Telegraphs that the employment of an additional police force in such place is thereby rendered necessary, the Local Government may, on the application of the said Director General, send such additional force to such place, and employ the same therein so long as such necessity continues,

and the inhabitants of such place shall be charged with the cost of such additional police force;

and the Magistrate of the District, after enquiry, if necessary, shall assess the proportion in which such cost is to be paid by the said inhabitants according to his judgment of their respective means.

All monies payable under this section shall be recoverable either under the warrant of a Magistrate by distress and sale of the goods of the defaulter within the local limits of such Magistrate's jurisdiction, or by suit in any competent Court, and shall be applied to the maintenance of the Police force, or otherwise as the Governor General in Council may from time to time direct.

16. Any Telegraph Officer who wilfully secretes, makes away with, alters or omits to transmit any message which he may have received for transmission or delivery,

or wilfully or otherwise than by the official order of a Secretary to the Government of India or to the Local Government, or of such other officer as the Governor General in Council authorizes to give such order, intercepts any message or any part thereof,

or divulges any message, or the purport of any message or of any part thereof, to any person not entitled to receive the same,

or divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

shall be liable to imprisonment for a term not exceeding two years, or to fine, or to both.

17. Every Telegraph Officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code. And in the definition of "legal remuneration" contained in the said section 161 the word "Government" shall, for the purposes of this Act, be deemed to include a person or company licensed under this Act.

18. Any Telegraph Officer guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message is endangered, or who loiters or makes delay in the transmission or delivery of any message, shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred Rupees, or to both.

19. Any Telegraph Officer who transmits by Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government, shall be liable to imprisonment for a term which may extend to three years, or to fine, or to both.

20. Whoever transmits or causes to be transmitted by a Telegraph a message which he knows to be false or fabricated, shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

21. Whoever fraudulently retains, or wilfully secretes, or makes away with, or keeps, or detains a message which ought to have been delivered to some other person,
 For retaining messages, &c., delivered by mistake,
 or being required by a Telegraph Officer to deliver up any such message, neglects or refuses to do so,
 shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

STATEMENT OF OBJECTS AND REASONS.

Doubts having been raised whether under the present Telegraph Act (VIII of 1860) rules can be framed for Telegraphs established under the repealed Act XXXIV of 1854, the present Bill has been prepared with the primary object of repealing and re-enacting Act VIII of 1860, with such change as will preclude all question as to the extent of the power above referred to.

The opportunity has been taken to make certain other alterations in the law, of which, the chief are as follows:—

The present law declares that Railway Companies shall permit Government to establish Telegraphs on their land, but provides no penalty for refusing such permission; the Bill (section 12) supplies this defect.

The section relating to injuries to Telegraphs has been made more specific, the wording of 24 & 25 Vic. cap. 97, section 37, being here followed.

A clause founded on sections 14 and 15 of the Police Act V of 1861 has been introduced to empower the Local Government to employ additional Police in places where mischief to Telegraphs is repeatedly committed, and to charge the inhabitants with the cost of the Police so employed.

The clause imposing penalties for sending fabricated messages has been made to apply to messages sent by Telegraphs established by a Company or person licensed under the proposed Act, as well as to messages sent by Government Telegraphs.

Fraudulently retaining or wilfully secreting telegraphic messages is made penal. An analogous clause is contained in the Post Office Act (XIV of 1866), section 45.

Sections 16, 17, 18, 19 and 20 of Act VIII of 1860, which relate to fines and jurisdiction have been omitted, as rendered unnecessary by Acts I of 1868 and X of 1872.

SIMLA,
 The 5th July 1875.

A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 31, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th July 1875, and was referred to a Select Committee with instructions to make their report thereon in six weeks.

No. 5 of 1875.

THE INDIAN TELEGRAPH BILL, 1875.

CONTENTS.

PREAMBLE.

I.—Preliminary.

SECTION.

1. Short title.
Local extent.
Commencement.
2. Act VIII of 1860 repealed.
Saving of existing licenses and rules.
3. Interpretation-clause.
- II.—Privileges and Powers of Government.*
4. Exclusive privilege of establishing Telegraphs.
Proviso as to licenses.
5. Power to take possession of Telegraphs established by license.

6. Power to establish Telegraphs on land of Railway Company.
7. Power to frame rules for the conduct of Government Telegraphs.
8. Power to frame rules for Telegraphs established by license,
and to declare Act applicable to Telegraphs established within British India by Foreign Powers.
9. Government not responsible for loss or damage.

III.—Penalties.

10. Penalty for establishing or maintaining unlicensed Telegraphs.
11. For using or working such Telegraphs.
12. For opposing establishment, &c., of Telegraphs on Railway land.
13. For intruding into signal-room, &c.
14. For injuring Telegraphs.
For preventing the sending, &c., of messages.
15. Power to employ additional police in places where mischief to Telegraphs is repeatedly committed.
16. Penalty for omitting to transmit or deliver messages.
For intercepting or divulging messages.
17. For offering bribes to Telegraph Officers.
18. For misconduct.
19. For sending messages without payment to Government.
20. For sending fabricated messages.
21. For retaining messages, &c., delivered by mistake.

A Bill to amend the law relating to Telegraphs in India.

Whereas it is expedient to amend the law relating to Telegraphs in India; It is hereby enacted as follows:—

Preamble.

I.—Preliminary.

1. This Act may be called "The Indian Telegraph Act, 1875."

Short title.

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty;

Local extent.

Commencement.

And it shall come into force at once.

2. Act No. VIII of 1860 (*for regulating the establishment and management of Electric Telegraphs in India*) is hereby repealed.

But all licenses granted, declarations made, and rules framed under the said Act or under Act No. XXXIV of 1854 and now in force, shall be deemed to have been respectively granted, made and framed under this Act.

Saving of existing licenses and rules.

Interpretation clause.

3. In this Act—

"Telegraph" means an Electric or Magnetic Telegraph;

"Telegraph Officer" means any person employed either permanently or temporarily in connection with a Telegraph established or maintained and worked by the Government, or by a Company or person licensed under this Act; and

"Message" means any communication sent by Telegraph, or given to a Telegraph Officer to be sent by Telegraph or to be delivered.

II.—Privileges and Powers of Government.

4. Within British India, the Governor General in Council shall have the exclusive privilege of establishing lines of Telegraph:

Provided that the Governor General in Council may grant a license to any person or Company to establish or to maintain a line of Telegraph within any part of British India, which license shall be revocable on the breach of any of the conditions therein contained.

5. On the occurrence of any public emergency (as to which an order signed by a Secretary to the Government of India shall be conclusive evidence), the Governor General in Council may take temporary possession of any line of Telegraph established or maintained by any Company or person licensed under this Act.

6. Any Railway Company, on being required so to do by the Governor General in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway a line of Telegraph, and shall give every reasonable facility for establishing and using the same.

7. The Governor General in Council may from time to time frame rules consistent with this Act, for the conduct of Telegraphs heretofore or hereafter established by Government, and may therein prescribe the

regulations, conditions and restrictions according to which all messages and signals shall be transmitted by such telegraphs.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(a) prescribe rules for the conduct of any Telegraph established or maintained by any Company or person licensed under this Act;

(b) declare what portions of this Act shall be applicable to such Telegraph and to persons using the same, or employed in connexion therewith;

(c) declare that this Act or such portions thereof as may be specified in the notification shall be applicable to any Telegraph established or to be established within British India by any Foreign Prince or State with the consent of the Government of India, and to persons using such Telegraph or employed in connexion therewith.

All rules prescribed under this section shall have the force of law.

9. The Government of India shall not be responsible for any loss or damage which may occur in consequence of any Telegraph Officer failing to transmit with accuracy or to deliver any message given to him for transmission or delivery; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously, or fraudulently.

Government not responsible for loss or damage.

III.—Penalties.

10. Whoever otherwise than under a license duly granted as aforesaid establishes, or after revocation of such license maintains, a line of Telegraph within British India, shall be liable to a fine not exceeding one thousand Rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding five hundred Rupees.

11. Whoever, knowing or having reason to believe that a Telegraph has been established or is maintained in contravention of this Act, uses such Telegraph for the purpose of sending or receiving messages, or performs any service incidental thereto, shall for every such offence be liable to a fine not exceeding fifty Rupees.

12. Any Railway Company neglecting or refusing to comply with the provisions of section six shall be liable to a fine of one thousand rupees for every day during which such neglect or refusal continues.

13. Whoever, without permission enters the signal-room of a Telegraph Office of the Government, or of a Company or person licensed under this Act,

and whoever refuses to quit such room on being requested to do so by any officer or servant employed therein,

Penalty for establishing or maintaining unlicensed Telegraphs.

For using or working such Telegraphs.

For opposing establishment, &c., of Telegraphs on Railway land.

For intruding into signal-room, &c.

Power to frame rules for the conduct of Government Telegraphs.

by Government, and may therein prescribe the

and whoever wilfully obstructs or impedes any such officer or servant in the performance of his duty,

shall be liable to a fine not exceeding one hundred Rupees.

14. Whoever unlawfully cuts, breaks, throws down, destroys, injures or removes any battery, machinery, wire, cable, post or other thing whatsoever, being part of or used in or about any Telegraph or in the working thereof,

and whoever unlawfully prevents or obstructs the sending, conveyance or delivery of any message,

shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

15. Whenever any act causing or likely to cause wrongful damage to any Telegraph is repeatedly committed in any place, and it appears to the Director General of Telegraphs that the employment of an additional police force in such place is thereby rendered necessary, the Local Government may, on the application of the said Director General, send such additional force to such place, and employ the same therein so long as such necessity continues,

and the inhabitants of such place shall be charged with the cost of such additional police force;

and the Magistrate of the District, after enquiry, if necessary, shall assess the proportion in which such cost is to be paid by the said inhabitants according to his judgment of their respective means.

All monies payable under this section shall be recoverable either under the warrant of a Magistrate by distress and sale of the goods of the defaulter within the local limits of such Magistrate's jurisdiction, or by suit in any competent Court, and shall be applied to the maintenance of the Police force, or otherwise as the Governor General in Council may from time to time direct.

16. Any Telegraph Officer who wilfully secretes, makes away with, alters or omits to transmit any message which he may have received for transmission or delivery,

or wilfully or otherwise than by the official order of a Secretary to the Government of India or to the Local Government, or of such other officer as the Governor General in Council authorizes to give such order, intercepts any message or any part thereof,

or divulges any message, or the purport of any message or of any part thereof, to any person not entitled to receive the same,

or divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

shall be liable to imprisonment for a term not exceeding two years, or to fine, or to both.

17. Every Telegraph Officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code. And in the definition of

"legal remuneration" contained in the said section 161 the word "Government" shall, for the purposes of this Act, be deemed to include a person or company licensed under this Act.

18. Any Telegraph Officer guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message is endangered, or who loiters or makes delay in the transmission or delivery of any message, shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred Rupees, or to both.

19. Any Telegraph Officer who transmits by Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government, shall be liable to imprisonment for a term which may extend to three years, or to fine, or to both.

20. Whoever transmits or causes to be transmitted by a Telegraph a message which he knows to be false or fabricated, shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

21. Whoever fraudulently retains, or wilfully secretes, or makes away with, or keeps, or detains a message which ought to have been delivered to some other person,

or being required by a Telegraph Officer to deliver up any such message, neglects or refuses to do so,

shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

STATEMENT OF OBJECTS AND REASONS.

Doubts having been raised whether under the present Telegraph Act (VIII of 1860) rules can be framed for Telegraphs established under the repealed Act XXXIV of 1854, the present Bill has been prepared with the primary object of repealing and re-enacting Act VIII of 1860, with such change as will preclude all question as to the extent of the power above referred to.

The opportunity has been taken to make certain other alterations in the law, of which, the chief are as follows:—

The present law declares that Railway Companies shall permit Government to establish Telegraphs on their land, but provides no penalty for refusing such permission; the Bill (section 12) supplies this defect.

The section relating to injuries to Telegraphs has been made more specific, the wording of 24 & 25 Vic., cap. 97, section 37, being here followed.

A clause founded on sections 14 and 15 of the Police Act V of 1861 has been introduced to empower the Local Government to employ additional Police in places where mischief to Telegraphs is repeatedly committed, and to charge the inhabitants with the cost of the Police so employed.

The clause imposing penalties for sending fabricated messages has been made to apply to messages sent by Telegraphs established by a Company or person licensed under the proposed Act, as well as to messages sent by Government Telegraphs.

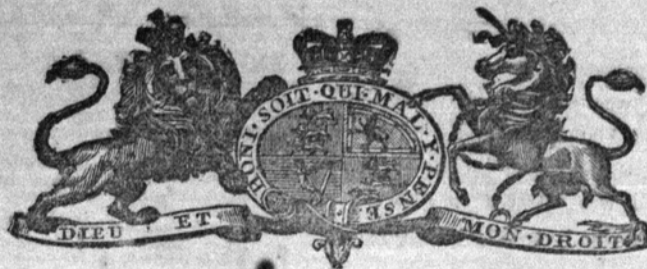
Fraudulently retaining or wilfully secreting telegraphic messages is made penal. An analogous clause is contained in the Post Office Act (XIV of 1866), section 45.

Sections 16, 17, 18, 19 and 20 of Act VIII of 1860, which relate to fines and jurisdiction have been omitted, as rendered unnecessary by Acts I of 1868 and X of 1872.

SIMLA,
The 5th July 1875. }

A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 7, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

(First publication.)

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th August 1875, and was referred to a Select Committee with instructions to make their report thereon in six weeks.

No. 6 of 1875.

A Bill for the improvement of Law Reports.

Whereas it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality: And whereas with a view to furthering these objects, the Governor General in Council proposes to authorize the publication of reports of cases decided by the High Courts of Judicature established under the 24th & 25th of Victoria, Chapter 104, to be called the Indian Authorized Law Reports; It is hereby enacted as follows:—

Short title.	1. This Act may be called "The Indian Law Reports Act, 1875."
Local extent.	It extends to the whole of British India;
And it shall come into force on such day as the Governor General in Council notifies in this behalf in the Gazette of India.	

2. Act No. II of 1875 (to diminish the multitude and improve the quality of Law Reports, and to extend the area of their authority) is hereby repealed.

3. No Court shall be bound to hear cited, or Authority given only shall receive or treat as an authorized report authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor General in Council.

4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

STATEMENT OF OBJECTS AND REASONS.

The second section of the Indian Law Reports Act (II of 1875) declares that every judgment of any High Court established under 24 & 25 Vic., c. 104 shall, if reported in the authorized reports, have the same authority in all subordinate Courts beyond the limits of its appellate jurisdiction as, independently of the Act, such judgment would have within such limits.

The Secretary of State for India objects to this provision and suggests that Act II of 1875 should be repealed and re-enacted with the omission of the second section.

The present Bill has been prepared to give effect to this suggestion.

SIMLA;
The 29th July 1875. }

A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th August 1875, and was referred to a Select Committee with instructions to make their report thereon in four months.

No. 7 of 1875.

THE REFORMATORY SCHOOLS' BILL, 1875.

CONTENTS.

Preamble.

I.—Preliminary.

SECTION.

1. Short title.
Local extent.
Commencement.
2. Interpretation-clause.

II.—Reformatory Schools.

3. Power to establish and discontinue Reformatory Schools.
4. Requisites of Schools.
5. Inspection of Schools.
6. Youthful offender may be sent to Reformatory School.
7. Also boys under twelve sentenced to imprisonment.
8. Also boys associating with thieves, &c.
9. Boys above sixteen not to be detained in School.
10. Discharge or removal by order of Government.

III.—Expenses of Reformatory Schools.

11. Power to apply Municipal funds.
12. Power to order parent, &c., of youthful offender to defray cost of his maintenance in School.

IV.—Boards of Management.

13. Appointment of Board of Management.
14. Chairman at meeting of Board.
15. Power to appoint Superintendent.
16. Board may license youthful offenders to employers of labour.
17. Cancellation of license at request of employer.
If complaint of employer just, no fresh license until expiry of twelve months.
18. License to determine on death, &c., of employer.
19. License may be cancelled in case of ill-treatment.
20. Board to be deemed guardian of youthful offenders.
Board may apprentice youthful offender who has behaved well during term of license.
21. Board may frame rules.

V.—Offences in relation to Reformatory Schools.

22. Punishment to which youthful offenders may be subjected.
23. Penalty for abetting escape of youthful offender.
24. Arrest of escaped youthful offenders.

A Bill to provide Reformatory and Industrial Schools.

Whereas it is expedient to provide Reformatory and Industrial Schools; It is hereby enacted as follows:—

Preamble.

I.—Preliminary.

1. This Act may be called "The Reformatory Schools Act, 1875":

Short title.

It extends to the whole of British India;

Local extent.

And it shall come into force at once.

Commencement.

Interpretation-clause.

2. In this Act—

"Youthful offender." "Youthful offender" means—

(a) any boy who, being at the time under the age of fourteen years, has been convicted of any offence punishable under the Indian Penal Code with imprisonment or transportation;

(b) any boy sent to a Reformatory School under this Act.

"Reformatory School" means a school primarily intended for male youthful offenders, and includes a school in which industrial training is provided, and in which boys are lodged, clothed and fed, as well as taught.

"Inspector General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector General of Jails.

"Magistrate" means in the towns of Calcutta, Madras and Bombay, a Magistrate of Police, and elsewhere a Magistrate of the first class.

II.—Reformatory Schools.

3. With the previous sanction of the Governor General in Council, the Local Government may—

(a) establish Reformatory Schools at such places as it thinks fit,

(b) use as Reformatory Schools, schools kept by persons willing to obey such rules consistent with this Act as the Local Government may from time to time prescribe in this behalf,

(c) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

4. Every school so established or used must provide—

(a) separate beds for each boy detained therein;

(b) proper sanitary arrangements, water-supply, food, clothing and bedding for such boys;

(c) the means of giving such boys industrial training;

(d) an infirmary or proper place for the reception of such boys when sick.

5. Every Reformatory School shall, before being used as such, be inspected by the Inspector General of Jails, and if in his

opinion such school is fitted for the reception of

such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official *Gazette*, and the school shall thereupon be deemed a Reformatory School.

Every such school shall from time to time, and at least once in every year, be visited by the said Inspector General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may from time to time prescribe.

6. Whenever any boy who, in the judgment of the Court before which he is charged, is under the age of fourteen years, is convicted of an offence punishable under the Indian Penal Code with transportation or imprisonment, the Court may, in lieu of sentencing him to transportation or imprisonment, direct him to be sent to a Reformatory School, and to be there detained for a period of not less than two years and not more than seven years.

7. Whenever any boy under the age of twelve years has been or shall be sentenced to imprisonment, the officer in charge of the Jail in which such person is confined may, with the sanction of the Local Government, bring him before the Magistrate within whose jurisdiction such Jail is situate, and the Magistrate, if he thinks fit, may direct him to be sent to a Reformatory School, and to be there detained for a period of not less than two and not more than seven years.

8. Whenever it appears to a Magistrate from evidence adduced before him that any boy under the age of fourteen years—

- (a) frequents the company of reputed robbers, house-breakers, thieves, public gamblers, or vagrants, or
- (b) is without any ostensible means of subsistence,

such Magistrate may direct him to be sent to a Reformatory School and to be there detained for a period of not less than two years and not more than seven years.

9. Nothing contained in sections six, seven and eight shall be deemed to authorize the detention in a Reformatory School of any person above the age of sixteen years.

10. The Local Government may at any time order any youthful offender to be discharged from a Reformatory School, or to be removed from one Reformatory School to another such school situate within the territories subject to such Government, but so that the whole period of detention of the offender in a Reformatory School shall not be increased by such removal.

III.—Expenses of Reformatory Schools.

11. Notwithstanding anything contained in any law for the time being in force in British India, every municipal corporation, municipal committee, or other body of persons

duly appointed to conduct the affairs of a municipality may, with the previous sanction of the Local Government, pay out of the funds at their disposal, towards the establishment, or maintenance, or both, of a Reformatory School within the limits of the place for which they are so appointed, such sum as may be agreed on in this behalf by and between the corporation, committee or body and the Local Government.

12. The parent or other person legally liable to maintain any youthful offender detained in a Reformatory School, shall, if of sufficient ability, contribute to his support and maintenance therein a sum not exceeding five rupees per month.

On the complaint of the said Inspector General, or of any police officer under his directions (with which directions the police officer is hereby required to comply) at any time during the continuance of the offender in the school, any Magistrate having jurisdiction at the place where the person liable as aforesaid resides, may, on summons to such person, examine into his ability, and may, if the Magistrate thinks fit, make an order on him for payment to the said Inspector General of such monthly sum not exceeding five rupees per month as to the Magistrate seems reasonable during the whole or any part of the period for which the offender is liable to be detained in the school.

Every such order may specify the time during which the payment is to be made, or may be until further order.

Every such payment shall be accounted for as the Local Government directs.

The Local Government may in its discretion remit all or any part of any payment so ordered.

Any Magistrate having jurisdiction to make such order may from time to time vary the same as circumstances require on the application either of the person on whom the order is made, or of the said Inspector General, on fourteen days' notice being first given of such application to the Inspector General or such person respectively.

In case of wilful neglect to comply with any order under this section, the Magistrate may proceed in manner provided by the Code of Criminal Procedure, section 536, clause 3.

IV.—Boards of Management.

13. For the control and management of every Reformatory School established under section three, clause (a), the Local Government shall,

and for the control and management of every Reformatory School used under section three, clause (b), the Local Government may,

from time to time appoint not less than five persons, of whom one at least shall be an officer of Government, and two at least shall be Natives of India.

Such persons shall be called the Board of Management of the School for which they are appointed.

The Local Government may from time to time suspend or remove any person so appointed.

14. At every meeting of the Board of Management of a school established under section three, clause Chairman at meeting of Board. (a), the officer of Government (or if there be more than one such officer, the senior officer) present shall be Chairman, and if there be no such officer present, a Chairman shall be elected by a majority of the Members of the Board.

15. The Board of Management shall appoint, and may (subject to such rules as the Local Government may from time to time prescribe in this behalf) suspend or remove, a Superintendent of the Reformatory School under their control and such other subordinate officers as may be necessary.

16. The Board of Management may permit any youthful offender sent to a Reformatory School who has attained the age of fourteen years, by license under the hand of their Chairman, to live under the charge of any trustworthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him, on the condition that the employer shall keep such offender employed at some trade, occupation, or calling.

The license shall be in force for three months and no longer, but may at any time before the expiration of the period for which the offender has been directed to be detained, be renewed from time to time for three months.

17. The license shall be cancelled at the desire of the employer named in the license; and if it appears to the Board of Management that any complaint made by the employer of misconduct on the part of the youthful offender is just, no other license in respect of the same offender shall be given until twelve months after the expiration of the former license.

18. If the employer named in the license die, or cease from business, during the term of the license, the license shall thereupon cease and determine.

19. If it appears to the Board of Management that the employer has ill-treated the offender, or has not adequately provided for his lodging and maintenance, the Board of Management may cancel the license.

20. The Board of Management of any Reformatory School shall be deemed guardian of youthful offenders. youthful offender detained in such school, within the meaning of Act No. XIX of 1850 (*concerning the binding of apprentices*),

and if it appear to the Board of Management that any such offender has behaved well during one or more periods of a license, the Board may apprentice him under the provisions of the said Act, and on such apprenticeship the respon-

sibility of the Board as regards such offender shall cease.

21. With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act to regulate—

- (a) the conduct of business of the Board,
- (b) the management of the School,
- (c) the education and industrial training of youthful offenders,
- (d) visits to and communication with youthful offenders,
- (e) punishments for offences committed in the School by youthful offenders,
- (f) the granting of licenses to employers of youthful offenders,
- (g) and, generally, for carrying out the purposes of this Act.

V.—Offences in relation to Reformatory Schools.

22. Except with the sanction of the Board of Management, no Superintendent of a Reformatory School shall punish any youthful offender with more than five stripes, or with irons, or with solitary confinement for more than six hours.

23. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one hundred rupees, or with both.

24. A Police Officer may, without orders from a Magistrate, and without a warrant, arrest any youthful offender sent to a Reformatory School under section six, seven, or eight, who has escaped from such school, or from his employer, and take him back to such school or to his employer.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to establish in British India institutions which, so far as regards males, may serve the combined purposes of the Reformatory Schools and the Industrial Schools so successfully carried on in England under 29 & 30 Vic., cc. 117, 118.

The peculiar circumstances of India render it inexpedient to bring girls within the scope of the Bill.

With the previous sanction of the Governor General in Council, Local Governments are empowered to establish Reformatory Schools (which are defined so as to include schools in which industrial training is provided), or to use as Reformatory Schools, schools kept by persons willing to obey such rules as Government may prescribe.

Provision is made that these schools shall be furnished with the proper requisites and periodically inspected.

Three classes of boys may be sent to Reformatory Schools:

- (a) boys under 14 convicted of offences punishable with transportation or imprisonment, but not sentenced;
- (b) boys under 12 sentenced to imprisonment; and
- (c) boys under 14 who associate with thieves, vagrants, &c., or are without visible means of subsistence.

The minimum time for which a boy will be sent to a Reformatory School is two years, the maximum seven years. But no boy will be detained after he attains the age of 16.

As to the expenses of these schools, Municipalities are empowered, with the sanction of the Local Government, to apply municipal funds to establish or maintain Reformatory Schools, and

Magistrates of the first class are empowered to order the parents of youthful offenders to contribute a moderate monthly sum to their support.

The Bill contains provisions as to the Boards which are to control and manage the schools. Two at least of these managers will always be Natives of India. The Board will have power to license youthful offenders to employers of labour; to cancel such licenses at the employer's request; to apprentice youthful offenders; and to make subsidiary rules.

Lastly, the Bill contains some clauses as to offences in relation to Reformatory Schools.

SIMLA; }
The 26th July 1875. } A. J. ARBUTHNOT.

WHITLEY STOKES,
Secy. to the Govt. of India



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 14, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

(Second publication.)

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th August 1875, and was referred to a Select Committee with instructions to make their report thereon in six weeks.

No. 6 of 1875.

A Bill for the improvement of Law Reports.

Whereas it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality: And whereas with a view to furthering these objects, the Governor General in Council proposes to authorize the publication of reports of cases decided by the High Courts of Judicature established under the 24th & 25th of Victoria, Chapter 104, to be called the Indian Authorized Law Reports; It is hereby enacted as follows:—

Short title.	1. This Act may be called "The Indian Law Reports Act, 1875."
Local extent.	It extends to the whole of British India;
Commencement.	And it shall come into force on such day as the Governor General in Council notifies in this behalf in the Gazette of India.

2. Act No. II of 1875 (to diminish the multitude and improve the quality of Law Reports, and to extend the area of their authority) is hereby repealed.

3. No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor General in Council.

4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

STATEMENT OF OBJECTS AND REASONS.

The second section of the Indian Law Reports Act (II of 1875) declares that every judgment of any High Court established under 24 & 25 Vic, c. 104 shall, if reported in the authorized reports, have the same authority in all subordinate Courts beyond the limits of its appellate jurisdiction as, independently of the Act, such judgment would have within such limits.

The Secretary of State for India objects to this provision and suggests that Act II of 1875 should be repealed and re-enacted with the omission of the second section.

The present Bill has been prepared to give effect to this suggestion.

SIMLA;
The 29th July 1875. } A. HOBHOUSE.

WHITLEY STOKES,
Secy. to the Govt. of India

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th August 1875, and was referred to a Select Committee with instructions to make their report thereon in four months.

No. 7 of 1875.

THE REFORMATORY SCHOOLS' BILL, 1875.

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8. Also boys associating with thieves, &c.
9. Boys above sixteen not to be detained in School.
10. Discharge or removal by order of Government.

III.—Expenses of Reformatory Schools.

11. Power to apply Municipal funds.
12. Power to order parent, &c., of youthful offender to defray cost of his maintenance in School.

IV.—Boards of Management.

13. Appointment of Board of Management.
14. Chairman at meeting of Board.
15. Power to appoint Superintendent.
16. Board may license youthful offenders to employers of labour.
17. Cancellation of license at request of employer.
If complaint of employer just, no fresh license until expiry of twelve months.
18. License to determine on death, &c., of employer.
19. License may be cancelled in case of ill-treatment.
20. Board to be deemed guardian of youthful offenders.
Board may apprentice youthful offender who has behaved well during term of license.
21. Board may frame rules.

V.—Offences in relation to Reformatory Schools.

22. Punishment to which youthful offenders may be subjected.
23. Penalty for abetting escape of youthful offender.
24. Arrest of escaped youthful offenders.

A Bill to provide Reformatory and Industrial Schools.

Whereas it is expedient to provide Reformatory and Industrial Schools; It is hereby enacted as follows:—

Preamble.

I.—Preliminary.

1. This Act may be called "The Reformatory Schools Act, 1875":

Short title.

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force at once.

Interpretation-clause.

2. In this Act—

"Youthful offender." "Youthful offender" means—

(a) any boy who, being at the time under the age of fourteen years, has been convicted of any offence punishable under the Indian Penal Code with imprisonment or transportation;

(b) any boy sent to a Reformatory School under this Act.

"Reformatory School" means a school primarily intended for male youthful offenders, and includes a school in which industrial training is provided, and in which boys are lodged, clothed and fed, as well as taught.

"Inspector General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector General of Jails.

"Magistrate" means in the towns of Calcutta, Madras and Bombay, a Magistrate of Police, and elsewhere a Magistrate of the first class.

II.—Reformatory Schools.

3. With the previous sanction of the Governor General in Council, the Local Government may—

(a) establish Reformatory Schools at such places as it thinks fit,

(b) use as Reformatory Schools, schools kept by persons willing to obey such rules consistent with this Act as the Local Government may from time to time prescribe in this behalf,

(c) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

4. Every school so established or used must provide—

(a) separate beds for each boy detained therein;

(b) proper sanitary arrangements, water-supply, food, clothing and bedding for such boys;

(c) the means of giving such boys industrial training;

(d) an infirmary or proper place for the reception of such boys when sick.

5. Every Reformatory School shall, before being used as such, be in-

spected by the Inspector General of Jails, and if in his opinion such school is fitted for the reception of

such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official *Gazette*, and the school shall thereupon be deemed a Reformatory School.

Every such school shall from time to time, and at least once in every year, be visited by the said Inspector General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may from time to time prescribe.

6. Whenever any boy who, in the judgment of the Court before which he is charged, is under the age of fourteen years, is convicted of an offence punishable under the Indian Penal Code with transportation or imprisonment, the Court may, in lieu of sentencing him to transportation or imprisonment, direct him to be sent to a Reformatory School, and to be there detained for a period of not less than two years and not more than seven years.

7. Whenever any boy under the age of twelve years has been or shall be sentenced to imprisonment, the officer in charge of the Jail in which such person is confined may, with the sanction of the Local Government, bring him before the Magistrate within whose jurisdiction such Jail is situate, and the Magistrate, if he thinks fit, may direct him to be sent to a Reformatory School, and to be there detained for a period of not less than two and not more than seven years.

8. Whenever it appears to a Magistrate from evidence adduced before him that any boy under the age of fourteen years—

- (a) frequents the company of reputed robbers, house-breakers, thieves, public gamblers, or vagrants, or
- (b) is without any ostensible means of subsistence,

such Magistrate may direct him to be sent to a Reformatory School and to be there detained for a period of not less than two years and not more than seven years.

9. Nothing contained in sections six, seven and eight shall be deemed to authorize the detention in a Reformatory School of any person above the age of sixteen years.

10. The Local Government may at any time order any youthful offender to be discharged from a Reformatory School, or to be removed from one Reformatory School to another such school situate within the territories subject to such Government, but so that the whole period of detention of the offender in a Reformatory School shall not be increased by such removal.

III.—Expenses of Reformatory Schools.

11. Notwithstanding anything contained in any law for the time being in force in British India, every municipal corporation, municipal committee, or other body of persons

duly appointed to conduct the affairs of a municipality may, with the previous sanction of the Local Government, pay out of the funds at their disposal, towards the establishment, or maintenance, or both, of a Reformatory School within the limits of the place for which they are so appointed, such sum as may be agreed on in this behalf by and between the corporation, committee or body and the Local Government.

12. The parent or other person legally liable to maintain any youthful offender detained in a Reformatory School, shall, if of sufficient ability, contribute to his support and maintenance therein a sum not exceeding five rupees per month.

On the complaint of the said Inspector General, or of any police officer under his directions (with which directions the police officer is hereby required to comply) at any time during the continuance of the offender in the school, any Magistrate having jurisdiction at the place where the person liable as aforesaid resides, may, on summons to such person, examine into his ability, and may, if the Magistrate thinks fit, make an order on him for payment to the said Inspector General of such monthly sum not exceeding five rupees per month as to the Magistrate seems reasonable during the whole or any part of the period for which the offender is liable to be detained in the school.

Every such order may specify the time during which the payment is to be made, or may be until further order.

Every such payment shall be accounted for as the Local Government directs.

The Local Government may in its discretion remit all or any part of any payment so ordered.

Any Magistrate having jurisdiction to make such order may from time to time vary the same as circumstances require on the application either of the person on whom the order is made, or of the said Inspector General, on fourteen days' notice being first given of such application to the Inspector General or such person respectively.

In case of wilful neglect to comply with any order under this section, the Magistrate may proceed in manner provided by the Code of Criminal Procedure, section 536, clause 3.

IV.—Boards of Management.

13. For the control and management of every Reformatory School established under section three, clause (a), the Local Government shall,

and for the control and management of every Reformatory School used under section three, clause (b), the Local Government may,

from time to time appoint not less than five persons, of whom one at least shall be an officer of Government, and two at least shall be Natives of India.

Such persons shall be called the Board of Management of the School for which they are appointed.

The Local Government may from time to time suspend or remove any person so appointed.

14. At every meeting of the Board of Management of a school established under section three, clause (a), the officer of Government (or if there be more than one such officer, the senior officer) present shall be Chairman, and if there be no such officer present, a Chairman shall be elected by a majority of the Members of the Board.

15. The Board of Management shall appoint, and may (subject to such rules as the Local Government may from time to time prescribe in this behalf) suspend or remove, a Superintendent of the Reformatory School under their control and such other subordinate officers as may be necessary.

16. The Board of Management may permit any youthful offender sent to a Reformatory School who has attained the age of fourteen years, by license under the hand of their Chairman, to live under the charge of any trustworthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him, on the condition that the employer shall keep such offender employed at some trade, occupation, or calling.

The license shall be in force for three months and no longer, but may at any time before the expiration of the period for which the offender has been directed to be detained, be renewed from time to time for three months.

17. The license shall be cancelled at the desire of the employer named in the license; and if it appears to the Board of Management that any complaint made by the employer of misconduct on the part of the youthful offender is just, no other license in respect of the same offender shall be given until twelve months after the expiration of the former license.

18. If the employer named in the license die, or cease from business, during the term of the license, the license shall thereupon cease and determine.

19. If it appears to the Board of Management that the employer has ill-treated the offender, or has not adequately provided for his lodging and maintenance, the Board of Management may cancel the license.

20. The Board of Management of any Reformatory School shall be deemed to be the guardian of any youthful offender detained in such school, within the meaning of Act No. XIX of 1850 (*concerning the binding of apprentices*),

and if it appear to the Board of Management that any such offender has behaved well during one or more periods of a license, the Board may apprentice him under the provisions of the said Act, and on such apprenticeship the respon-

sibility of the Board as regards such offender shall cease.

21. With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act to regulate—

- (a) the conduct of business of the Board,
- (b) the management of the School,
- (c) the education and industrial training of youthful offenders,
- (d) visits to and communication with youthful offenders,
- (e) punishments for offences committed in the School by youthful offenders,
- (f) the granting of licenses to employers of youthful offenders,
- (g) and, generally, for carrying out the purposes of this Act.

V.—Offences in relation to Reformatory Schools.

22. Except with the sanction of the Board of Management, no Superintendent of a Reformatory School shall punish any youthful offender with more than five stripes, or with irons, or with solitary confinement for more than six hours.

23. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one hundred rupees, or with both.

24. A Police Officer may, without orders from a Magistrate, and without a warrant, arrest any youthful offender sent to a Reformatory School under section six, seven, or eight, who has escaped from such school, or from his employer, and take him back to such school or to his employer.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to establish in British India institutions which, so far as regards males, may serve the combined purposes of the Reformatory Schools and the Industrial Schools so successfully carried on in England under 29 & 30 Vic., cc. 117, 118.

The peculiar circumstances of India render it inexpedient to bring girls within the scope of the Bill.

With the previous sanction of the Governor General in Council, Local Governments are empowered to establish Reformatory Schools (which are defined so as to include schools in which industrial training is provided), or to use as Reformatory Schools, schools kept by persons willing to obey such rules as Government may prescribe.

Provision is made that these schools shall be furnished with the proper requisites and periodically inspected.

Three classes of boys may be sent to Reformatory Schools:

- (a) boys under 14 convicted of offences punishable with transportation or imprisonment, but not sentenced;
- (b) boys under 12 sentenced to imprisonment; and
- (c) boys under 14 who associate with thieves, vagrants, &c., or are without visible means of subsistence.

The minimum time for which a boy will be sent to a Reformatory School is two years, the maximum seven years. But no boy will be detained after he attains the age of 16.

As to the expenses of these schools, Municipalities are empowered, with the sanction of the Local Government, to apply municipal funds to establish or maintain Reformatory Schools, and

Magistrates of the first class are empowered to order the parents of youthful offenders to contribute a moderate monthly sum to their support.

The Bill contains provisions as to the Boards which are to control and manage the schools. Two at least of these managers will always be Natives of India. The Board will have power to license youthful offenders to employers of labour; to cancel such licenses at the employer's request; to apprentice youthful offenders; and to make subsidiary rules.

Lastly, the Bill contains some clauses as to offences in relation to Reformatory Schools.

SIMLA;
The 26th July 1875. } A. J. ARBUTHNOT.

WHITLEY STOKES,
Secy. to the Govt. of India



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 21, 1875.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th August 1875, and was referred to a Select Committee with instructions to make their report thereon in six weeks.

No. 6 of 1875.

A Bill for the improvement of Law Reports.

Whereas it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality: And whereas with a view to furthering these objects, the Governor General in Council proposes to authorize the publication of reports of cases decided by the High Courts of Judicature established under the 24th & 25th of Victoria, Chapter 104, to be called the Indian Authorized Law Reports; It is hereby enacted as follows:—

Short title.	1. This Act may be called "The Indian Law Reports Act, 1875."
Local extent.	It extends to the whole of British India;
And it shall come into force on such day as the Governor General in Council notifies in this behalf in the Gazette of India.	

2. Act No. II of 1875 (*to diminish the multitude and improve the quality of Law Reports, and to extend the area of their authority*) is hereby repealed.

3. No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor General in Council.

4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

STATEMENT OF OBJECTS AND REASONS.

The second section of the Indian Law Reports Act (II of 1875) declares that every judgment of any High Court established under 24 & 25 Vic., c. 104 shall, if reported in the authorized reports, have the same authority in all subordinate Courts beyond the limits of its appellate jurisdiction as, independently of the Act, such judgment would have within such limits.

The Secretary of State for India objects to this provision and suggests that Act II of 1875 should be repealed and re-enacted with the omission of the second section.

The present Bill has been prepared to give effect to this suggestion.

SIMLA;
The 29th July 1875.

A. HOBHOUSE

WHITLEY STOKES,
Secy. to the Govt. of India.